SENATE.

MONDAY, *June 1, 1914.*

The Senate met at 11 o'clock a. m.

Rev. C. Everest Granger, D. D., of the city of Washington, offered the following prayer:

O glorious Lord God, maker, preserver, and giver of all good, we approach Thee this day with all reverence, with deep humility, and in simple faith. Grant us, we pray Thee, the great blessing of Thy divine grace. May Thy wisdom instruct, Thy spirit inspire, and Thy love overshadow all Thy servants this day. Make us deeply sensible of our need of Thee, and give us, we pray Thee, a comfortable assurance of Thy presence at all times and of Thy aid in special hours of need. Help us in our helplessness to lean hard upon Thee, and when we lean hard upon Thee help us. Vouchsafe to us, O God, strength for the duties of life and Thy wisdom, that we may intelligently do Thy will and serve our fellow men. In mercy pardon our sins and eternally save us. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Friday last was read and approved.

TRANSPORTATION BETWEEN ATLANTIC AND PACIFIC PORTS.

The VICE PRESIDENT laid before the Senate a communication from the Interstate Commerce Commission, acknowledging receipt of resolution of the Senate of the 16th ultimo, relative to the ownership of and rates charged by vessels between Atlantic and Pacific ports of the United States, which was referred to the Committee on Interstate Commerce.

POST-OFFICE EMPLOYEES.

The VICE PRESIDENT. The Chair lays before the Senate a communication from the Postmaster General, which will be read.

The Secretary read as follows:

POST OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., June 1, 1914.

THE PRESIDENT OF THE SENATE.

MY DEAR MR. PRESIDENT: I am in receipt of Senate resolution 373, reading as follows:

"*Resolved*, That the Postmaster General be directed to transmit to the Senate the following information:

"First. The names, ages, and length of service of those employees in the department in the District of Columbia and in the post office in Washington City who served in any war of the United States and who have been demoted, discharged, or resignations called for since March 4, 1914.

"Second. The rating of efficiency of each of such employees on March 4, 1914, and the rating with which they were credited at the date of demotion, discharge, or when resignation was called for."

In compliance with this resolution I wish to state that none of the employees of this department who served in any war of the United States has resigned or been removed since March 4, 1914. The only such person demoted is George Marshall, who, on March 24, 1914, was reduced from fireman, at $720, to laborer, at $660, on account of the excessive use of intoxicants. Mr. Marshall is 48 years old, has served in the department five years, and is a veteran of the Spanish-American War. He was informed at the time of his reduction that if his record warranted such action he would be restored to his former grade at the expiration of two months, and he was so restored on May 24, 1914.

The names, ages, length of service, and efficiency ratings of the war veterans in the employ of the Washington, D. C., post office who have been demoted, dropped from the rolls, or resigned from the service since March 4, 1914, are as follows:

Name.	Age.	Length of service.	Efficiency rating.	Action taken.
		Years.		
William E. Tew	74	37	78.4	Resigned.
Samuel R. Strattan	74	[1] 7	85	Do.
William A. Hutchins	77	19	84.8	Do.
Joseph Randall	77	47	94.6	Do.
John J. B. Lerch	81	51	59.2	Do.
Augustus Ridgely	78	51	69.1	Do.
G. T. Galliher [2]	68	32	85	Reduced.
O. T. Putnam	71	11	75	Do.
William W. Mills	77	42	88	Dropped.
George Dean	69	41	88	Do.

[1] Months. [2] Confederate Civil War veteran.

The postmaster states that these ratings covered the period from July 1 to December 31, 1913, and were the ratings of these persons on March 4, 1914, and at the time of their demotion, resignation, or separation from the service. There have been no removals or resignations during the present administration of any other persons employed in the Washington post office who served in any war of the United States, and the only such person demoted during that time was Henry L. Johnson, who was reduced in rank and salary on June 7, 1913, on charges preferred by Mr. Fulton R. Gordon, of Washington, D. C., who stated that in doing so he was "simply performing a patriotic duty."

There is inclosed a copy of a letter dated May 28, 1914, from the postmaster of Washington explaining why the action recommended by him was necessary.

Very truly, yours,

A. S. BURLESON,
Postmaster General.

WASHINGTON CITY POST OFFICE,
OFFICE OF THE POSTMASTER.
May 28, 1914.

Honorable POSTMASTER GENERAL,
Washington, D. C.

SIR: In response to a letter from the chief clerk of the department, dated May 27, asking for certain information called for in a resolution adopted by the United States Senate May 26, I transmit herewith the names, ages, length of service, and efficiency ratings of the war veterans in the employ of the Washington post office who have been demoted or dropped from the rolls or have resigned from the service since March 4, 1914. The ratings here given were made on January 1, 1914, and covered the period from July 1, 1913, to December 31, 1913. They were the only ratings with which the men were credited either on March 4, 1914, or at the time of their demotion or separation from the service. The information, as far as I am able to ascertain from the records of the office or from the employees in the office, is as follows:

William E. Tew; salary, $900; age, 74 years; period of service, 37 years; rating, 78.4 per cent; Union Civil War veteran; resigned.

Samuel R. Strattan; salary, $1,200; age, 74 years; period of service, 7 months; rating, 85 per cent; Union Civil War veteran; resigned.

William A. Hutchins; salary, $1,200; age, 77 years; period of service, 19 years; rating, 84.8 per cent; Union Civil War veteran; resigned.

Joseph Randall; salary, $1,200; age, 77 years; period of service, 47 years; rating, 94.6 per cent; Union Civil War veteran; resigned.

John J. B. Lerch; salary, $900; age, 81 years; period of service, 51 years; rating, 59.2 per cent; Union Civil War veteran; resigned.

G. T. Galliher, salary, $1,000; age, 68 years; period of service, 32 years; rating, 85 per cent; Confederate Civil War veteran; reduced to $800.

O. T. Putnam, salary, $1,000; age, 71 years; period of service, 11 years; rating, 75 per cent; Union Civil War veteran; reduced to $800.

Augustus Ridgely, salary, $1,100; age, 78 years; period of service, 51 years; rating 69.1 per cent; Union Civil War veteran; resigned.

William W. Mills, salary, $1,200; age, 77 years; period of service, 42 years; rating, 88 per cent; Union Civil War veteran; dropped.

George Dean, salary, $1,200; age, 69 years; period of service, 41 years; rating, 88 per cent; Union Civil War veteran; dropped.

These separations and demotions were only a small part of the results of the reorganization intended to put the administration of the Washington post office on a business basis. Less than 20 per cent of the employees affected by the reorganization were veterans of wars, which is a small percentage when it is considered that a large number of the older employees in the office are war veterans.

In order that you may be fully informed as to what has been undertaken in the Washington post office, I beg to report to you the results to date of this reorganization which was undertaken to enable the post office to render greater efficiency to the public, to keep the expenditures of the office within the allotment of money available for this city, and to comply with the spirit and intent of the law.

Growing out from this reorganization there have been to date 18 resignations and 30 demotions, while 3 employees have been dropped from the rolls. With three exceptions those who have either resigned or been dropped from the rolls were no longer necessary to the service, and the department has been advised that no appointments will have to be made to fill the vacancies thus caused.

Separations from the service as a result of this reorganization had nothing to do with the nationality, religion, or politics of any employee concerned, but were based only on consideration of the employee's efficiency or his necessity to the service, as is required by the following provision of the act of Congress approved April 1, 1909:

"The establishment of a civil-pension roll or an honorable-service roll, or the exemption of any of the officers, clerks, and persons in the Postal Service from the existing laws respecting employment in such service is hereby prohibited."

I do not know, save from hearsay, the number of former soldiers involved in these separations, but I have been informed that of the 51 employees separated or demoted 9 were Union and 1 were Confederate war veterans. Of the 21 persons separated from the service 1 (a Union war veteran) was totally deaf, and every direction given him had to be in writing; 1, a woman, had never recovered from a stroke of apoplexy, but had been kept on the rolls nearly a year, although unable to do more than the simplest desk work that required the services of another employee in constant supervision; 2 others, also Union war veterans, had afflictions of the mouth, commonly believed and feared by other employees to be malignant cancers and to be a menace to their associates and to the recipients of mail; while several others were in such stages of physical or mental incapacity as to either render their services nil, or require constant supervision. One of the war veterans whose affliction of the mouth is feared to be malignant cancer handled incoming letter mail for the Washington public, while the other, with an apparently like affliction, handled mail for Members of the House of Representatives and United States Senators.

When I assumed charge of the Washington post office on April 1, 1914, I entered upon the work with a mind free from any prejudice as to the personnel of the office or its administrative methods. However, in the councils with my supervisory officials, I speedily became aware of an intolerable situation in the office. I found that the service was top-heavy in the matter of the lighter desk and window work, and that the public interest demanded a strengthening of the distribution service, on which rests the whole intricate and responsible scheme of dispatch and delivery of the mails.

The civil-service system had been in force long enough to fill the office with elderly employees, particularly men too old to memorize the complex and ever-changing schemes of routing and distributing the mail. In addition, there had been unloaded on the Washington post office in a long course of years, through strong political influence or as a convenience to various departments of the Government, a large number of inexperienced employees whose services had not been sought by the post office, and who were not needed in its operation. Notwithstanding the inhibition of the United States statutes against keeping on the Government pay rolls useless, inefficient, or incapacitated employees, a desperate effort had been made to take care of these employees in some manner, with the result that all kinds of needless clerical or window jobs were created for them, either in the main office or outlying stations. Some of these persons were given the baldest pretenses at earning their salaries, ranging from $720 to $1,800 a year—mostly at $1,200 a year.

Although there was employed a sufficient force of unskilled laborers, one aged man was assigned to picking up scraps of paper on the post-

office sidewalk. For eight hours a day of this character of service he was drawing a salary of $720 a year. He was given a rating of 88.5 per cent. Two men were "pensioned" at $900 a year each, watching the messengers in a closed-in room awaiting their turns to take out special-delivery letters. A number of men were employed at the "cutting table" at a salary of $100 per month each. Their duty was to cut open small packages of letters. Others were given employment at the "facing table," at a salary of $100 per month. All they had to do was to arrange the letters on a table with the address sides facing in one direction and separating the long from the short envelopes. Any boy or girl could do the work at either the "facing table" or "cutting table," yet for eight hours a day of this character of work these men were receiving each a salary—substantially a pension—of $1,200 a year. This is the salary paid expert distributors for the most trying work in the postal service, and to earn which these distributors must constantly practice and study their work at home after completing their day's task in the post office. On these tasks at the "cutting" and "facing" tables at $1,200 a year were employed four of the men separated from the service. All four men were Union war veterans. The services of all these men were unnecessary, as the work is easily absorbed by the regular office force in the slack time. In addition, other places were created, equally unnecessary, equally simple, and equally well paid. Every device within the broadest interpretation of the law was resorted to in an effort to keep aged or politically protected employees on the pay roll.

In the meantime there was a constant strain on the distribution service, which needed keeping up to the highest pitch of efficiency, because of the steady growth of the mails and the great strides made by the parcel post. There were 1,097 employees on the pay roll of the Washington post office. Its quota was full. Under the Post Office appropriation act the Post Office Department could not allot to the Washington office the additional men so sorely needed in the handling of the mails. Every unexpected important rush of mail necessitated the employment of extra men or overtime, until this overtime and extra service has reached the sum of $20,000 a year for the Washington office. Yet here were men in the important operating divisions of the office doing practically children's work for salaries of $1,200 a year, who by their retention in the service were preventing the employment of young and active men for the swift and complex work involved in the movement of mail matter.

On the one hand was the public entitled to an exacting and expeditious handling of their mail and on the other was the department requiring that the Washington office keep expenditures within the sum available for its operation. At the same time the supervising heads, who were in no way responsible for this state of affairs in the office, were clamoring for relief from a condition that not only was intolerable, but constantly was growing worse.

With the consent of the department I undertook to give that relief, and am giving it, by the introduction of such simple business methods as it is obvious that this particular situation required. The plan of reorganizing the operating force of the office on a rational basis as is now being carried out consists of eliminating all employees whose services are not necessary or whose work can be more expeditiously and intelligently performed by efficient men. Under the head of unnecessary employees come those whose work can be absorbed with ease by the large force always available in the slack time in the office. This includes those who have resigned or have been dropped because their infirmity or incapacity has permitted them to do but a limited range of the exacting work involved in handling the mails; also men and women assigned to window or desk work, not because they were needed but because places had to be found for them to keep them on the Government pay roll.

It appears to have been a long-standing policy in the Government service generally to be more liberal with the creation of positions than ordinary business experience would justify. For instance, in one station in the 13 hours that the windows are open there were sold last year a daily average of $103 worth of stamps. For presiding at that window 8 hours a day one employee received $1,200 a year. At another window an average of 18 money orders were cashed or issued in the 13-hour period, and for presiding at that window 8 hours a day, cashing or issuing an average of less than 2 money orders an hour, and doing a negligible amount of clerical work on the side, an employee received $1,200 a year. At a third window an average of 12 pieces of registered mail were handled during the 13-hour period, and for 8 hours of this kind of service, together with a small amount of clerical work on the side, a clerk received $1,200 a year. Ordinary business instinct, if not a proper conception of public duty, would suggest consolidating those jobs in the hands of one efficient clerk. That is what I have ordered done. The Washington office being already oversupplied with such help, I was compelled to advise the Post Office Department that the services of two of these clerks are no longer necessary.

In this manner the main office and the stations are being reorganized. Superfluous employees are being eliminated and the slack is being taken up wherever possible by concentrating the work of the service for greater efficiency and closer supervision.

There has also been undertaken a readjustment of salaries commensurate with the character of work performed, and this has resulted in the recommendation of a number of decreases as well as increases of salary.

The system of ratings has been improved, the rating now being broken up into the several elements that enter into an employee's standing. As a result an employee's rating hereafter will reflect his value to the Postal Service as well as his regularity of attendance and proficiency in the particular task on which he is engaged.

By this course of administration we are beginning to live with greater efficiency within the allotments that the Post Office appropriation act makes possible for this office. At the same time we have been able to steadily improve the post-office service to the people. Since April 1 we have added carriers and wagons for the delivery service; we have extended the territory for the five-trip business delivery; we have vastly improved the mail collections and are building up and strengthening the distribution service of the office.

In the conduct of this reorganization, much of which was of a painful nature, I have had the loyal and unselfish support of the supervisory heads of the office.

I will add that in the light of the provision of the law which reads: "The establishment of a civil pension roll or an honorable service roll, or the exemption of any of the officers, clerks, and persons in the Postal Service from the existing laws respecting employment in such service, is hereby prohibited," I could not possibly take into consideration the personal fortunes of those who, unfortunately, had to be separated from the service. To have done so would have made it impossible to carry out this reorganization, which has been undertaken solely for the double purpose of rendering greater efficiency to the public and of bringing the service within the letter and intent of the law.

Very respectfully,

OTTO PRAEGER, *Postmaster.*

The VICE PRESIDENT. The communication will be printed in the RECORD.

Mr. STONE. Mr. President, the report ought to be disposed of in some way. I should prefer to have it lie on the table or to have it taken up to-morrow morning. It is in response to a resolution which has fulfilled its object. It calls for certain information from the Postmaster General, which information is supplied by this communication. If it is merely to go in the RECORD and lie there without anything else being done, it seems to me it will be a useless performance.

The VICE PRESIDENT. The Chair will inquire what can be done with it.

Mr. STONE. I think, on proper consideration, to-morrow morning or some later morning we can have it, at least, referred to a committee or printed as a Senate document.

Mr. JONES. Mr. President, I suggest to the Senator that the communication is in response to a resolution which the Senate has adopted.

Mr. STONE. Yes.

Mr. JONES. It gives us the information called for. Of course I should be very glad to see it published as a document, although I think having it printed in the RECORD probably will give us all the information that is necessary. The communication gives us the information called for. There is no other resolution pending.

Mr. STONE. At all events, I desire to make some observations on it. I shall not do so this morning, for the reason that I do not care to interfere with my friend the Senator from New Mexico [Mr. CATRON], who had risen to proceed with his address; but to-morrow morning, if I can get a few moments' time, I wish to make some observations on the report.

Mr. WARREN. If the Senator will allow me, I think, by unanimous consent, we can have it lie on the table for a day, and then I think it ought to be referred to some committee.

Mr. STONE. That was my idea—to have it printed and lie on the table.

Mr. OVERMAN. Does it not go into the RECORD, anyway, by reading?

Mr. GALLINGER. Of course.

Mr. STONE. Yes; it goes in the RECORD.

Mr. OVERMAN. I submit, then, that it ought to lie on the table.

Mr. STONE. It has been read, so it will appear in the RECORD; but we do not wish to throw it away on the floor. We ought to do something with it. I ask, therefore, that it lie on the table.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Minnesota?

Mr. STONE. Yes.

Mr. NELSON. I hope the communication may be printed. It was not read in its entirety, so it would not all go into the RECORD. I hope it may be printed in the RECORD and also as a document.

Mr. STONE. I have no objection to that.

Mr. NELSON. I make the request, with the permission of the Senator from Missouri.

Mr. STONE. But I should like to dispose of it in that way to-morrow morning instead of this morning. I ask that it lie on the table for the present.

The VICE PRESIDENT. The communication has been ordered printed in the RECORD. It will lie on the table until some further disposition has been made of it.

Mr. JONES. I understand it is intended that the letter from the postmaster of the city of Washington accompanying the communication is also to be printed in the RECORD.

The VICE PRESIDENT. The whole document.

Mr. JONES. So that it will all be printed in the RECORD.

The VICE PRESIDENT. It is so ordered.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented petitions of sundry citizens of Monterey, Clovis, Los Angeles, Santa Barbara, Colusa, and Oakland, in the State of California; of Clarkston, Wenatchee, Snohomish, Seattle, and Olympia, in the State of Washington; of Havelock and Ware, in the State of Iowa; of Mount Pulaski and Manteno, in the State of Illinois; of Morning Sun and Toledo, in the State of Ohio; of St. Louis, Mo.; of Hampton, Nebr.; of Elwyn, Pa.; and of La Junta, Colo., praying for the adoption of an amendment to the Constitution to prohibit polygamy, which were referred to the Committee on the Judiciary.

He also presented a memorial of the board of aldermen of New York City, N. Y., remonstrating against the proposed appropriation for the renovation of the present post-office building in City Hall Park, New York City, and favoring an appropriation for the construction of a new building on a more suitable site for the post office and Federal courts, which was referred to the Committee on Public Buildings and Grounds.

Mr. JONES presented memorials of sundry citizens of Centralia, Spokane, Dayton, Seattle, South Bend, and Aberdeen, all in the State of Washington, remonstrating against national prohibition, which were referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of Waverly, Wash., praying for national prohibition, which was referred to the Committee on the Judiciary.

Mr. PERKINS presented petitions of sundry citizens of San Francisco, Winters, and Auburn, all in the State of California, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented memorials of sundry citizens of San Diego and Stockton, in the State of California, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of sundry citizens of Barnard, Vt., praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

Mr. CRAWFORD presented petitions of sundry citizens of Oral, Hot Springs, Ardmore, Madison, Hermosa, Cascade Springs, Rapid City, Minnekahta, Lithia, Edgemont, Lead, and Sturgis, all in the State of South Dakota, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

Mr. GALLINGER presented a petition of the general conference of the Congregational churches of New Hampshire, praying for a peaceful settlement of the difficulties between Mexico and the United States, which was referred to the Committee on Foreign Relations.

Mr. LIPPITT presented petitions of sundry citizens of Rhode Island, praying for the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which were referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Rhode Island, remonstrating against the adoption of an amendment to the Constitution to prohibit the manufacture, sale, and importation of intoxicating beverages, which was referred to the Committee on the Judiciary.

He also presented a petition from the school committee of Johnston, R. I., praying for the enactment of legislation to provide for Federal censorship of motion pictures, which was referred to the Committee on Education and Labor.

RECLAMATION-EXTENSION BILL.

Mr. PITTMAN. I ask that certain telegrams from the governor of the State of Nevada, from the president of the water users' association, and from the Reno Commercial Club, in support of the passage of the reclamation-extension bill, may be printed in the RECORD.

There being no objection, the telegrams were referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed in the RECORD, as follows:

[Telegram.]

CARSON, NEV., *May 28, 1914.*

Senator KEY PITTMAN, *Washington, D. C.:*

Passage by Congress at this session of the reclamation-extension bill, providing for 20 years' reclamation payments by entrymen and authorizing Secretary of the Interior to cooperate with irrigation districts, we regard as imperative to the success of the Truckee-Carson reclamation project in this State as well as to the success of reclamation projects throughout the West, and we hereby urge your utmost efforts in support of its passage.

Tasker L. Oddie, Governor; Gilbert C. Ross, Lieutenant Governor; George Brodigan, Secretary of State; J. Eggers, State Controller; George B. Thatcher, Attorney General; Joe Josephs, Clerk Supreme Court; C. L. Deader, Surveyor General; William MacMillan, State Treasurer; John Edwards Brag, Superintendent Public Instruction; G. F. Talnot, Chief Justice; F. H. Norcross, Justice Supreme Court; P. A. McCarran, Justice Supreme Court; Joe Farnsworth, Superintendent State Printing; Ed. Ryan, Insurance of Mines; C. A. Norcross, Commissioner of Agriculture; W. M. Kearney, State Engineer.

[Telegram.]

FALLON, NEV., *May 28, 1914.*

Hon. KEY PITTMAN, *Washington, D. C.:*

Imperative for interests of Truckee-Carson project and entire State of Nevada that this session of Congress pass legislation providing for 20-year reclamation payments, and authorizing Secretary of the Interior to cooperate with irrigation districts. Please use best endeavors to that end; our information that bill has passed Senate and is before the House. Can not something be done to get favorable action? Failure of passage of measure at this session of Congress would be serious disaster to us.

R. L. DOUGLAS,
President of Water Users' Association.

[Telegram.]

RENO, NEV., *May 31, 1914.*

Senator KEY PITTMAN,
United States Senate, Washington, D. C.:

Are advised that reclamation-extension bill is in danger of being sidetracked. Failure of passage of bill at this session will be most serious setback to everyone. We earnestly urge your active support for passage of bill at this session.

RENO COMMERCIAL CLUB.

TERMS OF COURT AT ERIE, PA.

Mr. BRANDEGEE. From the Committee on the Judiciary I report back favorably without amendment the bill (H. R. 15190) to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913, and I submit a report (No. 574) thereon.

Mr. OLIVER. I ask unanimous consent for the present consideration of the bill. I will state that it is simply a bill changing the time for holding the terms of court in the city of Erie, in the western district of Pennsylvania. It has passed the House, and its enactment is requested by the judges of our district courts and by the members of the bar generally in western Pennsylvania.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. OLIVER. I ask that the report of the House committee, which is a very short one, may be printed in the RECORD.

The VICE PRESIDENT. Without objection, that may be done.

The report is as follows:

[House Report No. 536, Sixty-third Congress, second session.]

TERMS OF COURT AT ERIE, PA.

Mr. GRAHAM of Pennsylvania, from the Committee on the Judiciary, submitted the following report, to accompany H. R. 15190:

The Committee on the Judiciary, having had under consideration the bill (H. R. 15190), report the same back with the recommendation that it do pass.

The changes made in existing law by this bill are as follows:

1. Changes the day for the beginning of the terms of the district court of the western district of Pennsylvania by providing that the sessions of said court held at Erie shall begin on the third Mondays in March and September of each year instead of as now provided on the third Mondays of January and July. This change is desired by the court and bar in that locality for their greater convenience and the facility of business. The time of the meeting of the court at Pittsburgh remains unchanged, the court meeting part of the time at Erie and part of the time at Pittsburgh.

2. Provides that—

"The clerk shall place all cases in which the defendants reside in the counties of said (western) district nearest Erie upon the trial list for trial at Erie, where the same shall be tried, unless the parties thereto stipulate that the same may be tried at Pittsburgh."

This matter is now governed by the discretion of the clerk, and this change substitutes therefor a fixed rule except in those cases governed by a stipulation of the parties.

The effect of this bill is purely local, and meets with the approval of those whom its adoption will affect. It is believed that the changes are wholesome ones and will promote the administration of justice.

TERMS OF COURT IN WEST VIRGINIA.

Mr. CHILTON. From the Committee on the Judiciary I report back favorably without amendment the bill (S. 5574) to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States, and I submit a report (No. 575) thereon. I ask unanimous consent for the immediate consideration of the bill. I will explain that it refers entirely to the holding of court in the State of West Virginia and provides two additional places at which court shall be held, one in the northern district and one in the southern district. It meets with the approbation of both Senators from that State.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read as follows:

A bill (S. 5574) to amend and reenact section 113 of chapter 5 of the Judicial Code of the United States.

Be it enacted, etc., That section 113 of chapter 5 of the Judicial Code of the United States be amended and reenacted so that the same shall read as follows:

"SEC. 113. The State of West Virginia is divided into two districts, to be known as the northern and southern districts of West Virginia. The northern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Hancock, Brooke, Ohio, Marshall, Tyler, Pleasants, Wood, Wirt, Ritchie, Doddridge, Wetzel, Monongalia, Marion, Harrison, Lewis, Gilmer, Calhoun, Upshur, Barbour, Taylor, Preston, Tucker, Randolph, Pendleton, Hardy, Grant, Mineral, Hampshire, Morgan, Berkeley, and Jefferson, with the waters thereof. Terms of the district court for the northern district shall be held at Martinsburg on the first Tuesday of April and the third Tuesday of September; at Clarksburg on the second Tuesday of April and the first Tuesday of October; at Wheeling on the first Tuesday of May and the third Tuesday of October; at Philippi on the fourth Tuesday of May and the second Tuesday of November; at Elkins on the first Tuesday in July and the first Tuesday in December; and at Parkersburg on the second Tuesday of January and the second Tuesday of June: *Provided*, That a place for holding court at Philippi shall be furnished free of cost to the United States by Barbour County until other provision is made therefor by law. The southern district shall include the territory embraced on the 1st day of July, 1910, in the counties of Jackson, Roane, Clay, Braxton, Webster, Nicholas, Pocahontas, Greenbrier, Fayette, Boone, Kanawha, Putnam, Mason, Cabell, Wayne, Lincoln, Logan, Mingo, Raleigh, Wyoming, McDowell, Mercer, Summers, and Monroe, with the waters thereof. Terms of the district court for the southern district shall be held at Charleston on the first Tuesday of June and the third Tuesday of November; at Huntington on the first Tuesday of April and the first Tuesday after the third Monday of September; at Bluefield on the first Tuesday of May and the third Tuesday of October; at Williamson on the first Tuesday of October; at Webster Springs on the first Tuesday of September; and at Lewisburg on the second Tuesday of July: *Provided*, That a place for holding court at Webster Springs shall be furnished free of cost to the United States: *And provided further*, That no court shall be held at Williamson until a suitable building for the holding of said court shall have been provided."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GRONNA:

A bill (S. 5707) for the erection of a public building in the city of Fargo, N. Dak.; to the Committee on Public Buildings and Grounds.

By Mr. MARTINE of New Jersey:

A bill (S. 5708) granting an increase of pension to Amelia Dingler (with accompanying papers); to the Committee on Pensions.

By Mr. LIPPITT:

A bill (S. 5709) granting a pension to Sarah E. Harriman; to the Committee on Pensions.

By Mr. SMITH of Arizona:

A bill (S. 5710) granting an increase of pension to George Washington Cameron; to the Committee on Pensions.

VOCATIONAL EDUCATION.

Mr. SMITH of Georgia. Mr. President, during the present session of Congress a joint resolution was passed providing for the appointment by the President of a commission to consider the question of national aid to vocational education, and to report upon the advisability of such aid, and, if possible, to present also a plan for the aid. The joint resolution required the commission to report by June 1.

The President named the commission, consisting of Senator Page and myself, Congressmen Hughes and Fess, Mr. John A. Lapp, Mr. C. A. Prosser, Mr. Charles H. Winslow, Miss Agnes Nestor, and Miss Florence M. Marshall.

For the last two months the commission has been laboriously at work. The two Senators and the two Congressmen have given to the commission all the time possible, while the five other members have devoted all of their days to the work and have also frequently worked at night. Senator PAGE and myself, together with the two Congressmen, were necessarily compelled to leave the substance of the report largely to the five noncongressional members, who gave all of their time to the work, and while the nine members of the commission signed the report, it is chiefly the product of the five noncongressional members of the commission.

A large amount of testimony was taken upon the subject. Letters of inquiry were written to every State asking for the views of State superintendents and other educators. The commission has directed that the testimony be printed.

The report which I present to-day will also be printed under the supervision of the commission.

After paying for printing the reports we are gratified to state that there will still be about $4,000 left unexpended from the $15,000 appropriated for the use of this commission.

We have jointly perfected a bill which provides for eventually an appropriation of $7,000,000 by the National Government toward training teachers and toward paying the salaries of teachers for vocational educational work.

By direction of the commission 5,000 copies of the report are being printed for the use of the Senate.

I present not only the report, but I offer the bill which is approved by all the members of the commission, and I ask that it be read by title and printed in the RECORD and referred to the Committee on Education and Labor.

The bill (S. 5706) to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure, was read twice by its title, referred to the Committee on Education and Labor, and ordered to be printed in the RECORD, as follows:

A bill (S. 5706) to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure.

Be it enacted, etc., That there is hereby annually appropriated, out of the money in the Treasury not otherwise appropriated, the sums provided in sections 2, 3, and 4 of this act, to be paid to the respective States for the purpose of cooperating with the States in paying the salaries of teachers, supervisors, and directors of agricultural subjects, and of teachers of trade and industrial subjects, and in the preparation of teachers of agricultural, trade, and industrial and home economics subjects; and the sum provided for in section 7 to the Federal board for vocational education for the administration of this act and for the purpose of making studies, investigations, and reports to aid in the organization and conduct of vocational education, which sums shall be expended as hereinafter provided.

SEC. 2. That for the purpose of cooperating with the States in paying the salaries of teachers, supervisors, or directors of agricultural subjects there is hereby appropriated to the States for the fiscal year ending June 30, 1916, the sum of $500,000; for the fiscal year ending June 30, 1917, the sum of $750,000; for the fiscal year ending June 30, 1918, the sum of $1,000,000; for the fiscal year ending June 30, 1919, the sum of $1,250,000; for the fiscal year ending June 30, 1920, the sum of $1,500,000; for the fiscal year ending June 30, 1921, the sum of $1,750,000; for the fiscal year ending June 30, 1922, the sum of $2,000,000; for the fiscal year ending June 30, 1923, the sum of $2,500,000; for the fiscal year ending June 30, 1924, and annually thereafter, the sum of $3,000,000. Said sums shall be allotted to the States in the proportion which their rural population bears to the total rural population in the United States, not including outlying possessions, according to the last preceding United States census: *Provided*, That the allotment of funds to any State shall be not less than a minimum of $5,000 for any fiscal year prior to and including the fiscal year ending June 30, 1922, nor less than $10,000 for any fiscal year thereafter, and there is hereby appropriated the following sums, or so much thereof as may be necessary, for the purpose of providing the minimum allotment to the States provided for in this section: For the fiscal year ending June 30, 1916, the sum of $48,000; for the fiscal year ending June 30, 1917, the sum of $34,000; for the fiscal year ending June 30, 1918, the sum of $24,000; for the fiscal year ending June 30, 1919, the sum of $18,000; for the fiscal year ending June 30, 1920, the sum of $14,000; for the fiscal year ending June 30, 1921, the sum of $11,000; for the fiscal year ending June 30, 1922, the sum of $9,000; for the fiscal year ending June 30, 1923, the sum of $34,000; and annually thereafter the sum of $27,000

SEC. 3 That for the purpose of cooperating with the States in paying the salaries of teachers of trade and industrial subjects there is hereby appropriated to the States, for the fiscal year ending June 30, 1916, the sum of $500,000; for the fiscal year ending June 30, 1917, the sum of $750,000; for the fiscal year ending June 30, 1918, the sum of $1,000,000; for the fiscal year ending June 30, 1919, the sum of $1,250,000; for the fiscal year ending June 30, 1920, the sum of $1,500,000; for the fiscal year ending June 30, 1921; the sum of $1,750,000; for the fiscal year ending June 30, 1922, the sum of $2,000,000; for the fiscal year ending June 30, 1923, the sum of $2,500,000; for the fiscal year ending June 30, 1924, the sum of $3,000,000, and annually thereafter the sum of $3,000,000. Said sums shall be allotted to the States in the proportion which their urban population bears to the total urban population in the United States, not including outlying possessions, according to the last preceding United States census: *Provided*, That the allotment of funds to any State shall be not less than a minimum of $5,000 for any fiscal year prior to and including the fiscal year ending June 30, 1922, nor less than $10,000 for any fiscal year thereafter, and there is hereby appropriated the following sums, or so much thereof as may be needed for the purpose of providing the minimum allotment to the States provided for in this section: For the fiscal year ending June 30, 1916, the sum of $66,000; for the fiscal year ending June 30, 1917, the sum of $46,000; for the fiscal year ending June 30, 1918, the sum of $34,000; for the fiscal year ending June 30, 1919, the sum of $28,000; for the fiscal year ending June 30, 1920, the sum of $25,000; for the fiscal year ending June 30, 1921, the sum of $22,000; for the fiscal year ending June 30, 1922, the sum of $19,000; for the fiscal year ending June 30, 1923, the sum of $56,000; for the fiscal year ending June 30, 1924, and annually thereafter the sum of $50,000.

SEC. 4. That for the purpose of cooperating with the States in preparing teachers, supervisors, and directors of agricultural subjects, and teachers of trade and industrial and home economic subjects there is hereby appropriated to the States, for the fiscal year ending June 30, 1916, the sum of $500,000; for the fiscal year ending June 30, 1917, the sum of $700,000; for the fiscal year ending June 30, 1918, the sum of $900,000; for the fiscal year ending June 30, 1919, and annually

thereafter, the sum of $1,000,000. Said sums shall be allotted to the States in the proportion which their population bears to the total population of the United States, not including outlying possessions, according to the last preceding United States census: *Provided*, That the allotment of funds to any State shall be not less than a minimum of $5,000 for any fiscal year prior to and including the fiscal year ending June 30, 1918, nor less than $10,000 for any fiscal year thereafter. And there is hereby appropriated the following sums, or so much thereof as may be needed, for the purpose of providing the minimum allotment provided for in this section: For the fiscal year ending June 30, 1916, the sum of $46,000; for the fiscal year ending June 30, 1917, the sum of $32,000; for the fiscal year ending June 30, 1918, the sum of $24,000; for the fiscal year ending June 30, 1919, and annually thereafter, the sum of $90,000.

SEC. 5. That in order to secure the benefits of the appropriations provided for in sections 2, 3, and 4 of this act, any State shall, through the legislative authority thereof, accept the provisions of this act and designate or create a State board, consising of not less than three members, and having all necessary power to cooperate, as herein provided, with the Federal board for vocational education in the administration of the provisions of this act. The State board of education, or other board having charge of the administration of public education in the State, or any State board having charge of the administration of any kind of vocational education in the State may, if the State so elect, be designated as the State board for the purposes of this act.

Any State may accept the benefits of any one or more of the respective funds herein appropriated, and it may defer the acceptance of the benefits of any one or more of such funds, and shall be required to meet only the conditions relative to the fund or funds the benefits of which it has accepted: *Provided*, That after June 30, 1917, no State shall receive any appropriation for salaries of teachers, supervisors, or directors of agricultural subjects unless it shall have taken advantage of at least the minimum amount appropriated for the training of teachers, supervisors, or directors of agricultural subjects, as provided for in this act, and that after said date no State shall receive any appropriation for the salaries of teacners of trade and industrial subjects unless it shall have taken advantage of at least the minimum amount appropriated for the training of teachers of trade and industrial subjects, as provided for in this act.

SEC. 6. That a Federal board for vocational education is hereby created to consist of the Postmaster General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor. The board shall organize and elect one of its members as chairman. The board shall have power to cooperate with State boards in carrying out the provisions of this act. It shall be the duty of the Federal board for vocational education to make or cause to have made studies, investigations, and reports, with particular reference to their use in aiding the States in the establishment of vocational schools and classes and in giving instruction in agriculture, trades and industries, commerce and commercial pursuits, and home economics. Such studies, investigations, and reports shall include agriculture and agricultural processes and requirements upon agricultural workers; trades, industries, and apprenticeships, trade and industrial requirements upon industrial workers, and classification of industrial processes and pursuits; commerce and commercial pursuits and requirements upon commercial workers; home processes and problems and requirements upon home workers; and problems of administration of vocational schools and of courses of study and instruction in vocational subjects.

Such studies, investigations, and reports concerning agriculture, for the purposes of agricultural education, shall, so far as practicable, be made in cooperation with or through the Department of Agriculture; such studies, investigations, and reports concerning trades and industries, for the purposes of trade and industrial education, shall, so far as practicable, be made in cooperation with or through the Department of Labor; such studies, investigations, and reports concerning commerce and commercial pursuits, for the purposes of commercial education, shall, so far as practicable, be made in cooperation with or through the Department of Commerce; such studies, investigations, and reports concerning the administration of vocational schools, courses of study and instruction in vocational subjects, shall, so far as practicable, be made in cooperation with or through the Bureau of Education.

The Commissioner of Education shall be the executive officer of the board. He may make such recommendations to the board relative to the administration of this act as he may from time to time deem advisable. It shall be the duty of the Commissioner of Education to carry out the rules, regulations, and decisions which the board may adopt. The Federal board for vocational education shall have power to employ such assistants as may be necessary to carry out the provisions of this act.

SEC. 7. That there is hereby appropriated to the Federal board for vocational education the sum of $200,000 annually to be available from and after the passage of this act for the purpose of making or cooperating in making the studies, investigations, and reports provided for in section 6 of this act, and for the purpose of paying the salaries of assistants and office and such other expenses as the board may deem necessary to the execution and administration of this act. The Federal board for vocational education may allot any part of said appropriation to any United States department or bureau for the purpose of making any study or investigation, or part thereof, under the provisions of this act.

SEC. 8. That in order to secure the benefits of the appropriations for any purposes specified in this act, the State board shall prepare plans, showing the kinds of vocational education for which it is proposed that the appropriation shall be used; the kinds of schools and equipment; courses of study; methods of instruction; qualifications of teachers and, in the case of agricultural subjects, the qualifications of supervisors or directors; plans for the training of teachers; and, in the case of agricultural subjects, plans for the supervision of agricultural education, as provided for in section 10. Such plans shall be submitted by the State board to the Federal board for vocational education, and if the Federal board finds the same to be in conformity with the provisions and purposes of this act, the same shall be approved. The State board shall make an annual report to the Federal board for vocational education on or before September 1 of each year on the work done in the State, and the receipts and expenditures of money under the provisions of this act.

SEC. 9. That the appropriation for the salaries of teachers, supervisors, or directors of agricultural subjects and of teachers of trade and industrial subjects shall be devoted exclusively to the payment of salaries of such teachers, supervisors, or directors having the minimum qualifications set up for the State by the State board, with the approval of the Federal board for vocational education. The cost of instruction supplementary to the instruction in agricultural and in trade and industrial subjects provided for in this act necessary to build a well-rounded course of training shall be borne by the State and local communities, and no part of the cost thereof shall be borne out of the appropriations herein made. The moneys expended under the provisions of this act in cooperation with the States for the salaries of teachers, supervisors, or directors of agricultural subjects or for the salaries of teachers of trade and industrial subjects shall be conditioned that for each dollar of Federal money expended for such salaries the State or local community, or both, shall expend an equal amount for such salaries; and that appropriations for the training of teachers of vocational subjects as herein provided shall be conditioned that such moneys be expended for maintenance of such training, and that for each dollar of Federal money so expended for maintenance the State or local community, or both, shall expend an equal amount for the maintenance of such training.

SEC. 10. That any State may use the appropriation or any part thereof allotted to it under the provisions of this act for the salaries of teachers, supervisors, or directors of agricultural subjects, either for the salaries of teachers of such subjects in schools or classes or for the salaries of supervisors or directors of such subjects under a plan of supervision for the State to be set up by the State board, with the approval of the Federal board for vocational education. That in order to receive the benefits of such appropriation for the salaries of teachers, supervisors, or directors of agricultural subjects the State board of any State shall provide in its plan for agricultural education that such education shall be that which is supported and controlled by the public; that the controlling purpose of such education shall be to fit for useful employment; that such education shall be of less than college grade and be designed to meet the needs of persons over 14 years of age who have entered upon or who are preparing to enter upon the work of the farm or of the farm home; that the State or local community, or both, shall provide the necessary plant and equipment determined upon by the State board with the approval of the Federal board for vocational education as the minimum requirement for such education in schools and classes in the State; that the amount expended for the maintenance of such education in any school or class receiving the benefit of such appropriation shall be not less annually than the amount fixed by the State board, with the approval of the Federal board, as the minimum for such schools or classes in the State; that such schools shall provide for directed or supervised practice in agriculture either on a farm provided for by the school or other farm for at least six months per year; that the teachers, supervisors, or directors of agricultural subjects shall have at least the minimum qualifications determined for the State by the State board with the approval of the Federal board for vocational education.

SEC. 11. That in order to receive the benefits of the appropriation for the salaries of teachers of trade and industrial subjects the State board of any State shall provide in its plan for trade and industrial education that such education shall be given in schools or classes supported and controlled by the public; that the controlling purpose of such education shall be to fit for useful employment; that such education shall be of less than college grade and shall be designed to meet the needs of persons over 14 years of age who are preparing for a trade or industrial pursuit or who have entered upon the work of a trade or industrial pursuit; that the State or local community, or both, shall provide the necessary plant and equipment determined upon by the State board with the approval of the Federal board for vocational education as the minimum requirement in such State for education for any given trade or industrial pursuit; that the total amount expended for the maintenance of such education in any school or class receiving the benefit of such appropriation shall be not less annually than the amount fixed by the State board, with the approval of the Federal board, as the minimum for such schools or classes in the State; that such schools or classes giving instruction to persons who have not entered upon employment shall require that at least half of the time of such instruction be given to practical work on a useful or productive basis, such instruction to extend over not less than 9 months per year and not less than 30 hours per week; that at least one-third of the sum appropriated to any State for the salaries of teachers of trade and industrial subjects shall, if expended, be applied to part-time schools or classes for young workers over 14 years of age who have entered upon employment, and such subjects in a part-time school or class may mean any subject given to enlarge the civic or vocational intelligence of such workers over 14 and less than 18 years of age; that such part-time schools or classes shall provide for not less than 144 hours of classroom instruction per year; that evening industrial schools shall fix the age of 16 years as a minimum entrance requirement and shall confine instruction to that which is supplemental to the daily employment; that the teachers of any trade or industrial subject in any State shall have at least the minimum qualifications for teachers of such subject determined upon for such State by the State board with the approval of the Federal board for vocational education: *Provided*, That for cities and towns of less than 25,000 population, according to the last preceding United States census, the State board, with the approval of the Federal board for vocational education, may modify the conditions as to the length of course and hours of instruction per week for schools and classes giving instruction to those who have not entered upon employment in order to meet the particular needs of such cities and towns.

SEC. 12. That in order to receive the benefits of the appropriation in this act for the training of teachers, supervisors, or directors of agricultural subjects, or of teachers of trade and industrial or home economics subjects, the State board of any State shall provide in its plan for such training that the same shall be carried out under the supervision of the State board; that such training shall be given in schools or classes supported and controlled by the public; that such training shall be given only to persons who have had adequate vocational experience or contact in the line of work for which they are preparing themselves as teachers, supervisors, or directors, or who are acquiring such experience or contact as a part of their training, and that the State board, with the approval of the Federal board, shall establish minimum requirements for such experience or contact for teachers, supervisors, or directors of agricultural subjects, and for teachers of trade and industrial and home economics subjects; that not more than 60 per cent nor less than 20 per cent of the money appropriated under this act for the training of teachers of vocational subjects to any State for any year shall be expended in the preparation of teachers, supervisors, or directors of agricultural subjects or of teachers of trade and industrial subjects or of teachers of home economics subjects.

SEC. 13. That in order to secure the benefits of the appropriations for the salaries of teachers, supervisors, or directors of agricultural subjects, or for the salaries of teachers of trade and industrial subjects or for the training of teachers as herein provided, any State shall,

through the legislative authority thereof, appoint the State treasurer as custodian for vocational education, who shall receive and provide for the proper custody and disbursement of moneys paid to the State from said appropriations.

SEC. 14. That the Federal board for vocational education shall annually ascertain whether the States are using or are prepared to use the moneys received by them in accordance with the provisions of this act On or before the 1st day of January of each year the Federal board for vocational education shall certify to the Secretary of the Treasury as to each State which has accepted the provisions of this act and complied therewith, certifying the amounts which each State is entitled to receive under the provisions of this act. Upon such certification the Secretary of the Treasury shall pay quarterly to the custodian for vocational education of each State the moneys to which it is entitled under the provisions of this act. The moneys so received by the custodian for vocational education for any State shall be paid out on the requisition of the State board, as reimbursement for expenditures already incurred, to such schools as are approved by said State board and are entitled to receive such moneys under the provisions of this act.

SEC. 15. That whenever any portion of the fund annually allotted to any State has not been expended for the purpose provided for in this act, a sum equal to such portion shall be deducted by the Federal board from the next succeeding annual allotment from such fund to such State.

SEC. 16. That the Federal board for vocational education may withhold the allotment of moneys to any State whenever it shall appear that such moneys are not being expended for the purposes and under the conditions of this act. If any allotment is withheld from any State, the State board of such State may appeal to the Congress of the United States, and if the Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

SEC. 17. That if any portion of the moneys received by the custodian for vocational education of any State under this act, for any given purpose named in this act, shall by any action or contingency be diminished or lost, it shall be replaced by such State, and until so replaced no subsequent appropriation for such education shall be paid to such State. No portion of any moneys appropriated under this act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or for the purchase or rental of lands.

SEC. 18. That the Federal board for vocational education shall make an annual report to Congress, on or before December 1, on the administration of this act and shall include in such report the reports made by the State boards on the administration of this act by each State and the expenditure of the money allotted to each State.

THE INCOME TAX.

Mr. SMITH of Georgia. I introduce a joint resolution and ask that it be read and referred to the Committee on Finance.

The joint resolution (S. J. Res. 155) to remit under certain conditions and for the year 1914 the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act, in cases where said returns are completed by June 1, 1914, was read the first time by its title and the second time at length and referred to the Committee on Finance, as follows:

To remit under certain conditions and for the year 1914 the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act, in cases where said returns are completed by June 1, 1914.

Whereas the income tax has gone into effect for the first time during the present year; and

Whereas through misapprehension of the law many parties have failed to make their proper returns prior to March 1, 1914: Therefore be it

Resolved, etc., That the penalties provided by the act approved October 3, 1913, for failure to properly return the income tax provided for in said act, be, and the same are hereby, remitted for the present year in all cases where said returns are completed by June 1 of the present year, and where the failure to make said returns was not due to a purpose willfully to refrain from making the same.

STATISTICS ON MARRIAGE AND DIVORCE.

Mr. SHEPPARD. I introduce a joint resolution, which I ask may be read at length.

The joint resolution (S. J. Res. 154) authorizing and directing the Director of the Census to collect and publish statistics of marriage and divorce was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the Director of the Census be, and he is hereby, authorized and directed to collect and publish the statistics of and relating to marriage and divorce in the several States and the District of Columbia for the seven years from January 1, 1907, to December 31, 1913, and for each year thereafter annually: *Provided*, That such statistics as now required by law to be collected be used so far as it is practicable to do so.

Mr. SHEPPARD. There is a petition accompanying the joint resolution which I should like to have read in connection with it. It will explain the measure.

There being no objection, the petition was read, as follows:

INTERNATIONAL COMMITTEE ON MARRIAGE AND DIVORCE,
May 11, 1914.

To the Senate and House of Representatives of the United States:

The undersigned petitioners, all being citizens of the United States, respectfully pray that provisions be made for the collection of statistics of and relating to marriage and divorce for the seven years from 1907 to 1913, inclusive, and annually hereafter.

Your memorialists respectfully point out the reasons given in the petitions for the prior investigations, and beg leave to refer you to Bulletin 96 of the Bureau of the Census and to the two-volume Report on Marriage and Divorce issued by it in 1908 and 1909, presenting a summary of the earlier investigation and the full data for the 20 years from 1887 to 1906.

From these volumes and from the estimates made in the official correspondence of this bureau it appears that over 1,000,000 divorces will be granted in the United States in 10 years ending with 1916.

We also show that in spite of the many changes in the marriage and divorce laws of the several States in the past 65 years the tide of divorces has steadily risen throughout every portion of our Nation at an average rate three times as great as the rate of increase of the population.

And we would show further that the increase of interest evidenced by memorials and resolutions from many most important educational bodies, both religious and secular, requires that exact information be had every year from the Government concerning the more than 100,000 divorces that are now being granted annually in our own continental United States.

Alfred Harding, Bishop of Washington; David H. Greer, Bishop of New York; William T. Manning, Trinty Church, New York; Natalie F. Hammond; Morgan J. O'Brien; Newell De Witt Hillis, Plymouth Church, Brooklyn; W. Bourke Cockran; Cornelius Woelfkin, Fifth Avenue Baptist Church, New York City; Samuel McCune Lindsay; Christian F. Reisner, Pastor Grace Methodist Church, New York City; Felix Adler, Leader of the Society for Social Culture; Wm. Jay Schieffelin.

Mr. GALLINGER. Mr. President, I notice that the joint resolution calls upon the Director of the Census. I will ask the Senator if we have a Director of the Census at the present time?

Mr. SHEPPARD. It is my opinion that we have a very fine one, Mr. President.

Mr. GALLINGER. I thought I read the other day that he was a candidate for the governorship of a great State, and I did not suppose that he would continue to hold his office while seeking the governorship of a State.

Mr. SHEPPARD. I think the matter will be handled satisfactorily to all concerned.

Mr. GALLINGER. That is to say, if he fails to elect himself governor of the State he will continue Director of the Census, I suppose. Is that the idea?

Mr. SHEPPARD. The Senator has had long experience in politics, and he must know that very few people voluntarily resign.

Mr. GALLINGER. Mr. President, I am glad that we have a Director of the Census. I was afraid we had none.

The VICE PRESIDENT. The joint resolution and accompanying petition will be referred to the Committee on the Census.

AMENDMENT TO THE RIVER AND HARBOR BILL.

Mr. LIPPITT submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

LIABILITY OF COMMON CARRIERS.

Mr. CUMMINS submitted the following resolution (S. Res. 384), which was read:

Resolved, That immediately after the final disposition of the bill now the unfinished business the Senate take up for consideration Senate bill 4522, to amend the interstate-commerce act relative to liability of common carriers.

Mr. CUMMINS. Mr. President, I will explain the resolution by saying that it is the bill to which I referred some days ago and for which I asked unanimous consent for consideration at that time I do not believe it will require more than 20 minutes to dispose of the bill. It is a very important one. It is intended to relieve shippers of freight upon railways from the very unjust and burdensome rule which has been placed upon them since the decision of the Supreme Court in the case of Adams Express Co. against Groniger, and to remedy an obvious and acknowledged defect in what is known as the Carmack amendment, adopted in 1906.

I do not want to interfere in any way with procedure that will hasten the final disposition of the tolls bill, but I hope that I may have this bill considered immediately after it. I assure the Senate that there is nothing in the bill that will provoke any considerable debate; at least I believe there is nothing of the kind in it, because it is reported unanimously by the Interstate Commerce Committee, and I think if there had been any grave objection to it it would have been encountered in that committee.

Mr. SHAFROTH. Mr. President, I have had on the calendar a notice for two months that I would call up Senate joint resolution No. 10. While I do not want to interfere with the short discussion of any other measure, it seems to me that the Senator from Iowa could easily call up his bill after 1 o'clock and have consideration of it for a full hour. I would have no objection whatever to that course, but to substitute it for another measure and make it the order of business seems to me would not be the proper course in view of the notices which have been given.

Mr. CUMMINS. I am glad to have that suggestion from the Senator from Colorado, and I comply with it by asking unanimous consent to take up the bill for consideration now.

The VICE PRESIDENT. Is there objection?

Mr. THORNTON. Mr. President——

Mr. WALSH. I feel obliged to say to the Senator from Iowa that I have been very assiduously endeavoring to obtain for the bill S. 4405, popularly known as the radium bill, the parliamentary situation of unfinished business. I reiterate that these valuable lands belonging to the Government of the United States are being absorbed every day by what practically amounts to a monopoly of the production of radium in this country which is unloading its product upon the people at a cost from two to three times its real value, and that the Government hospitals, in order to keep pace with the private hospitals in the country and hospitals abroad managed and conducted by Governments, will be obliged to go out into the open market and purchase what we allow thus to be absorbed at what will eventually amount to something like $3,000,000 to the Government of the United States unless some speedy steps are taken to conserve this valuable resource.

Mr. CUMMINS. I did not hear the concluding suggestion of the Senator from Montana. Does he object?

Mr. WALSH. I shall feel impelled to bring this bill to the attention of the Senate at the very earliest opportunity; and much as I regret being put in that position, I shall be obliged to object to the consideration of any other measure before the radium bill is considered by the Senate.

Mr. CUMMINS. My present request is that the bill to which I have referred be now brought before the Senate. I am temporarily leaving my resolution out of the question. Does the Senator from Montana object to taking up at this time the bill to which I have referred?

Mr. WALSH. How much time does the Senator think the bill will occupy?

Mr. CUMMINS. I do not think there will be any debate at all upon it, and I do not believe that it will require more than 15 minutes; but, of course, that is only an opinion. If, however, the Senate grants me leave to have the bill taken up now, it could not continue very long; but I do not want that done if it will be unsatisfactory to the Senators who are to speak this morning upon the tolls bill. Of course, in no event could the consideration of the bill continue beyond 1 o'clock.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). The Senator from Iowa asks unanimous consent for the present consideration of Senate bill 4522. Is there objection?

Mr. NEWLANDS. Mr. President, I have just entered the Chamber. Is the bill to which the Senator refers the one relating to bills of lading?

Mr. CUMMINS. It is a bill intended to restore the law as it was in most of the States prior to 1906, so that common carriers can not limit their liability.

The PRESIDING OFFICER. The Secretary will state the number and title of the bill.

The SECRETARY. It is Order of Business No. 346, being the bill (S. 4522) to amend an act entitled "An act to amend an act entitled 'An act to regulate commerce,' approved February 4, 1887, and all acts amendatory thereof, and to enlarge the powers of the Interstate Commerce Commission," approved June 29, 1906.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. NEWLANDS. Mr. President, as I entered the Chamber I was informed that the purpose of the Senator from Iowa was to have this bill in some way made the unfinished business.

Mr. CUMMINS. I have asked for unanimous consent to proceed with the consideration of the bill at this time. Of course, that will not make it the unfinished business.

Mr. NEWLANDS. I wish to say that as the trust bill will probably come up immediately after the tolls bill shall have been disposed of I shall be compelled to object to the consideration of any bill which will interfere with the consideration of that bill, but as it is believed this bill will only take a short time—and I share in that belief—I have no objection to the present consideration of the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. KERN. Mr. President, before any consent of that kind is given we want some assurance that no considerable length of time will be occupied by the consideration of this bill. The Panama tolls bill is before the Senate as the unfinished business. It is highly desirable that that be given the right of way this week. If the bill referred to by the Senator from Iowa [Mr. CUMMINS] could be disposed of in a few moments in a formal way, I would not object; but I can not consent to anything that will take any considerable length of time, which would stand in the way of the Panama tolls bill.

Mr. CUMMINS. I repeat that I have never encountered any objection to the bill except from the representatives of the railroad companies. Whether the objection that was made to the bill by the railroad companies in the committee will appear in the Senate I do not know; but I believe that it will not. If it does not, it will require but a very few minutes to dispose of the bill.

Mr. KERN. With that understanding, I shall not object.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Mississippi?

Mr. CUMMINS. I yield to the Senator from Mississippi.

Mr. WILLIAMS. I do not know what bill it is unanimous consent for the consideration of which is asked. Therefore I am making objection to the bill independent of it. I think we ought to get a vote on the tolls bill before we open the Senate to the consideration of anything else. I therefore object.

Mr. CUMMINS. Now, Mr. President, I insist upon my resolution. I am, of course, conscious that a single objection will take it over one day, but I intend to insist upon it.

Mr. GALLINGER. Let the resolution be again read.

The VICE PRESIDENT. The resolution will be read.

The Secretary read the resolution (S. Res. 384), as follows:

Resolved, That immediately after the final disposition of the bill now the unfinished business the Senate take up for consideration Senate bill 4522, to amend the interstate-commerce act relative to liability of common carriers.

Mr. THORNTON. Mr. President, I would ask the Senator from Iowa if by that he expects to displace the naval appropriation bill? If so, I shall certainly oppose the resolution.

Mr. CUMMINS. The consequences of adopting this resolution every Senator knows as well as I. The Senator from Louisiana, however, must be conscious that the naval appropriation bill will in all probability be disposed of long before the tolls bill is voted on. I have no doubt that the appropriation bill will be very speedily voted upon, whereas the tolls bill will probably not be voted on until the latter part of this week, and perhaps not so soon as that. My resolution simply gives this bill a specific place after the disposition of the tolls bill.

Mr. THORNTON. Mr. President, at 1 o'clock automatically the Panama Canal tolls bill comes before the Senate, unless it is placed before it by unanimous consent prior to that time. Just as soon as the discussion of the Panama Canal tolls bill is finished for the day I shall be obliged to insist on bringing up the naval appropriation bill.

Mr. CUMMINS. This resolution does not interfere with that.

Mr. THORNTON. I do not know how long the consideration of the resolution will last.

Mr. CUMMINS. This resolution does not in any way interfere with the naval appropriation bill.

Mr. GALLINGER. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. CUMMINS. I yield to the Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I have never known the unfinished business to be provided for by resolution. I have known a special order to be made which would give a day in court to a particular bill; but if we are to provide that after one unfinished business is disposed of another shall be taken up, we can see exactly what that will lead to. For that reason I must object to the consideration of the resolution for the day at least.

Mr. CUMMINS. Mr. President, my resolution does not make the bill referred to therein the unfinished business, nor does it attempt to do so.

The VICE PRESIDENT. There being objection, the resolution goes over for the day.

TRANSPORTATION OF PARCEL-POST PACKAGES.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Res. 363) submitted by Mr. SMITH of Georgia on May 14, 1914, as follows:

Whereas on August 24, 1912, a joint committee on postage on second-class mail matter and compensation for transportation of mails was authorized to investigate and report upon the rates, etc., paid to the railroad companies for the carriage of mail matter; and

Whereas the matter carried by the parcel post is of a character that can be handled in a different class of car and at cheaper rates than ordinary mail matter; and

Whereas it is of great importance that the Post Office Department should have an opportunity to readjust its contracts for mail transportation, with a view of providing economical and suitable accommodations for the transportation of parcel-post packages: Therefore be it

Resolved, That the joint committee on postage on second-class mail matter and compensation for transportation of mails be requested to

report at as early a day as possible the result of their investigations and their findings.

Resolved further, That the joint committee on postage on second-class mail matter and compensation for transportation of mails be requested to advise the Senate of the time at which they will be able to make their report.

Mr. SMITH of Georgia. Mr. President, I ask unanimous consent that the resolution may go over until Thursday next, without losing its position. It is possible that by that time it may be unnecessary to press it.

The VICE PRESIDENT. Without objection, the resolution will go over until Thursday next.

NEW YORK CENTRAL & HUDSON RIVER RAILROAD CO.

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a preceding day, which will be read.

The Secretary read the resolution (S. Res. 382) submitted by Mr. NORRIS on May 28, 1914, as follows:

Whereas the New York Central & Hudson River Railroad Co., through its ownership of the stock of the Lake Shore & Michigan Southern Railway Co., forms a continuous line of railway from Chicago, through Buffalo, to New York City; and

Whereas said New York Central & Hudson River Railroad Co. controls by lease the West Shore Railroad Co.; and the said Lake Shore & Michigan Southern Railway Co. owns the stock of the New York, Chicago & St. Louis Railroad Co. (Nickel Plate), which, together with the said West Shore Railroad Co., constitutes a railroad running parallel to the Lake Shore & Michigan Southern Railway Co. and the New York Central & Hudson River Railroad Co. from Chicago, through Buffalo, to New York City; and

Whereas the New York Central & Hudson River Railroad Co. owns the stock in the Michigan Central Railway Co., a line of railway extending from Chicago to Buffalo; and

Whereas said New York Central & Hudson River Railroad Co. owns the stock in the Western Transit Co. and the Rutland Transit Co., constituting a water-navigation line engaged in interstate commerce between Buffalo and Chicago and intermediate points; and

Whereas this ownership results in a combination under one control of four competing lines of transportation between Chicago and Buffalo and two competing lines between Buffalo and New York City; and

Whereas the said Lake Shore & Michigan Southern Railway Co., in addition to the ownership of the said New York, Chicago & St. Louis Railroad Co., owns all of the stock of the Toledo & Ohio Central Railway Co.; of the Chicago, Indiana & Southern Railroad Co.; and of the Jamestown, Franklin & Clearfield Railroad Co.; and also owns more than 50 per cent of the stock of the Pittsburgh & Lake Erie Railroad Co.; and

Whereas the said New York Central & Hudson River Railroad Co. controls the Western Maryland Railway Co., which, together with the said Pittsburgh & Lake Erie Railroad Co., constitutes another competing line between territory covered by the Lake Shore & Michigan Southern Railway Co. and the New York, Chicago & St. Louis Railroad Co. with the Atlantic seaboard; and

Whereas the said New York Central & Hudson River Railroad Co. is now taking the necessary steps to more completely consolidate all of the aforesaid railroads, together with others, under one ownership and control: Therefore be it

Resolved, That the Attorney General be, and he is hereby, directed to inform the Senate whether the various combinations of railroads above set forth are in violation of the Sherman antitrust law or any other statute of the United States, and whether the Department of Justice has in contemplation any action for the dissolution of said combinations.

The VICE PRESIDENT. The question is on the motion of the Senator from North Carolina [Mr. OVERMAN] to refer the resolution to the Committee on Interstate Commerce.

Mr. NORRIS. Mr. President, does the Senator from North Carolina insist upon his motion?

Mr. OVERMAN. I certainly do, Mr. President. I have examined the record and have noticed that when we were in the minority such resolutions were always referred to a committee, and I think this resolution should be referred to the Committee on Interstate Commerce. I do not care to say anything more about it; the resolution has been debated here at length.

Mr. NORRIS. I have no desire to debate it, and I am not going to do so; but on that motion I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the senior Senator from New Mexico [Mr. FALL]. In his absence, I withhold my vote.

Mr. COLT (when his name was called). I have a pair with the Senator from Delaware [Mr. SAULSBURY] and therefore withhold my vote.

Mr. CRAWFORD (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA] and withhold my vote in his absence.

Mr. THORNTON (when Mr. O'GORMAN's name was called). I am requested to announce the necessary absence of the junior Senator from New York [Mr. O'GORMAN].

Mr. SUTHERLAND. I have a pair with the Senator from Arkansas [Mr. CLARKE], who is absent. On that account I withhold my vote.

Mr. WILLIAMS (when his name was called). Transferring my pair with the senior Senator from Pennsylvania [Mr. PENROSE] to the senior Senator from Oklahoma [Mr. OWEN], I vote "yea."

The roll call was concluded.

Mr. WHITE. I wish to announce the absence of my colleague [Mr. BANKHEAD] from the city and his pair with the junior Senator from West Virginia [Mr. GOFF]. I ask that this announcement may stand for the day.

Mr. MYERS. I inquire if the Senator from Connecticut [Mr. MCLEAN] has voted?

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. MYERS. I have a pair with that Senator; but I transfer that pair to the Senator from Oklahoma [Mr. GORE] and vote "yea."

Mr. BRYAN (after having voted in the affirmative). I have a pair with the junior Senator from Michigan [Mr. TOWNSEND], which I transfer to the junior Senator from Arkansas [Mr. ROBINSON] and allow my vote to stand.

Mr. CRAWFORD. I will transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from California [Mr. WORKS] and vote "nay."

Mr. JAMES. I transfer the general pair I have with the Senator from Massachusetts [Mr. WEEKS] to the Senator from Maryland [Mr. LEE] and vote "yea."

Mr. GALLINGER. I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I transfer that pair to the senior Senator from North Dakota [Mr. MCCUMBER] and vote "yea."

I beg to announce that the junior Senator from Maine [Mr. BURLEIGH] is paired with the junior Senator from New Hampshire [Mr. HOLLIS]; that the Senator from Vermont [Mr. DILLINGHAM] is paired with the Senator from Maryland [Mr. SMITH]; that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED]; that the Senator from Illinois [Mr. SHERMAN] is paired with the Senator from New Jersey [Mr. HUGHES]; and that the Senator from Delaware [Mr. DU PONT] is paired with the Senator from Texas [Mr. CULBERSON].

Mr. TILLMAN. I have a general pair with the Senator from Wisconsin [Mr. STEPHENSON]. I transfer that pair to the Senator from Tennessee [Mr. SHIELDS] and vote "yea."

Mr. GOFF. I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD] and therefore withhold my vote.

Mr. GRONNA. I inquire if the senior Senator from Maine [Mr. JOHNSON] has voted.

The VICE PRESIDENT. The Chair is informed that he has not.

Mr. GRONNA. I have a general pair with that Senator. Not knowing how he would vote if present, I shall have to withhold my vote. Were I permitted to vote, I should vote "nay."

The result was announced—yeas 33, nays 20, as follows:

YEAS—33.

Brandegee	Martin, Va.	Shafroth	Tillman
Bryan	Myers	Shively	Walsh
Burton	Newlands	Simmons	Warren
Catron	Oliver	Smith, Ariz.	West
Clark, Wyo.	Overman	Smith, Ga.	White
Gallinger	Pittman	Stone	Williams
James	Pomerene	Swanson	
Lippitt	Ransdell	Thompson	
Lodge	Root	Thornton	

NAYS—20.

Ashurst	Clapp	Kern	Norris
Borah	Crawford	La Follette	Page
Brady	Cummins	Lane	Perkins
Bristow	Jones	Martine, N. J.	Sheppard
Chamberlain	Kenyon	Nelson	Sterling

NOT VOTING—42.

Bankhead	Gore	O'Gorman	Smith, S. C.
Burleigh	Gronna	Owen	Smoot
Chilton	Hitchcock	Penrose	Stephenson
Clarke, Ark.	Hollis	Poindexter	Sutherland
Colt	Hughes	Reed	Thomas
Culberson	Johnson	Robinson	Townsend
Dillingham	Lea, Tenn.	Saulsbury	Vardaman
du Pont	Lee, Md.	Sherman	Weeks
Fall	Lewis	Shields	Works
Fletcher	McCumber	Smith, Md.	
Goff	McLean	Smith, Mich.	

So the resolution was referred to the Committee on Interstate Commerce.

Mr. JONES subsequently said: Mr. President, it has occurred to me that I have a pair with the junior Senator from South Carolina [Mr. SMITH]. I inadvertently voted on the question of referring to the committee the resolution of the Senator from Nebraska [Mr. NORRIS]; but inasmuch as my vote would not change the result one way or the other, it can stand without any injury. I simply wish to make this statement in justice to myself.

MIGRATORY BIRD LAW.

Mr. BRYAN. Mr. President, I have a copy of a decision rendered by the district judge of the eastern district of Arkansas in the Federal migratory bird law case. I ask that it may be printed in the RECORD.

Mr. SMOOT. I will ask the Senator if this was not printed last week in the RECORD?

Mr. BRYAN. It was not. A brief account, setting forth the facts that the law had been held unconstitutional by this district judge, was printed. This is the text of the opinion.

Mr. SMOOT. It is the full text?

Mr. BRYAN. Yes.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

United States *v.* Harvey C. Shauver. W. H. Martin, Esq., United States district attorney, and J. H. Acklen, of Nashville, Tenn., for the United States; E. L. Westbrook, of Jonesboro, Ark., for the defendant. Trieber, district judge.

The defendant demurs to the indictment in this cause, which charges him with a violation of that part of the appropriation act for the Department of Agriculture approved March 4, 1913 (37 Stat., 828, 847), known as the migratory birds provision, and the regulations made by the Department of Agriculture in pursuance thereof, and which have been approved by the President. That provision reads:

"All wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

"The Department of Agriculture is hereby authorized and directed to adopt suitable regulations to give effect to the previous paragraph by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flight, thereby enabling the department to select and designate suitable districts for different portions of the country, and it shall be unlawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law during said closed seasons, and any person who shall violate any of the provisions or regulations of this law for the protection of migratory birds shall be guilty of a misdemeanor and shall be fined not more than $100 or imprisoned not more than 90 days, or both, in the discretion of the court.

"The Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption shall cause the same to be engrossed and submitted to the President of the United States for approval: *Provided, however*, That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of nonmigratory game or other birds resident and breeding within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute."

In pursuance of this authority, the Department of Agriculture has adopted suitable regulations, which have been approved by the President.

GROUND FOR DEMURRER.

That the National Constitution is an enabling instrument, and therefore Congress possesses only such powers as are expressly or by necessary implication granted by that instrument, is not questioned. Unless, therefore, there is some provision in the National Constitution granting to Congress, either expressly or by necessary implication, the power to legislate on this subject the act can not be sustained.

The deference due from the judiciary to the other coordinate departments of the Government has made the courts, when the constitutionality of an act of the legislative department is attacked, to yield rather than encroach on the legislative domain. Only if the question is practically free from real doubt will the courts declare an act of the legislature unconstitutional. The fact that the statute goes to the verge of the constitutional power is not enough; it must appear clearly that it is beyond that power to justify a court to declare it void. These principles are so well settled by an unbroken line of decisions of all the American courts that it is unnecessary to cite authorities to sustain them.

It is equally well settled that as to all internal affairs the States retained their police power, which they as sovereign nations possessed prior to the adoption of the National Constitution, and no such powers were granted to the Nation. (Cooley Const. Lim., 574; Patterson *v.* Kentucky, 97 U. S., 501–503; Covington, etc., Bridge Co. *v.* Kentucky, 154 U. S., 204, 310; United States *v.* Boyer (D. C.), 85 Fed., 425, 434.) But it is now equally well settled that the United States does possess what is analogous to the police power, which every sovereign nation possesses as to its own property (Camfield *v.* United States, 167 U. S. 518, 525), and to carry into effect those powers which the Constitution has conferred upon it. (In re Debs, 158 U. S., 564, 581; Light *v.* United States, 220 U. S., 523, 536; Hoke *v.* United States, 227 U. S., 308, 323.)

It is not claimed by counsel for the Government that the power to enact such legislation exists under the commerce clause of the Constitution, but it is claimed that subsection 2 of section 3, Article IV, of the Constitution, which is as follows, grants the necessary power:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State."

IMPLIED ATTRIBUTE.

It is also claimed that it is one of those implied attributes of sovereignty in which the National Government has concurrent jurisdiction with the States; that it is a dormant right in the National Government, and where the State is clearly incompetent to save itself the National Government has the right to aid. To sustain the latter proposition stress is laid on the fact that it is impossible for any State to enact laws for the protection of migratory wild game, and only the National Government can do it with any fair degree of success, consequently the power must be national and vested in the Congress of the United States. A similar argument was presented to the court in Kansas *v.* Colorado (206 U. S., 46, 89), but held untenable. Mr. Justice Brewer, speaking for the court, disposed of it by saying:

"But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in the grant of powers, is in direct conflict with the doctrine that this is a Government of enumerated powers. That this is such a Government clearly appears from the Constitution, independently of the amendment, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This is the natural construction of the original body of the Constitution, independently of the amendment, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the tenth amendment. This amendment, which was seemingly adopted with prescience of just such a contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary, they should be granted by the people in the manner they had provided for amending that act. Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted."

This disposes of that contention.

Are migratory birds, when in a State on their usual migration, the property of the United States or of the State where they are found? If they are the property of the Nation, the States would have no power to regulate, control, or prohibit the hunting or killing of them. But the rule of law, which all the American courts have recognized, is that animals feræ naturæ, denominated as game, are owned by the States, not as proprietors, but in their sovereign capacity as the representatives and for the benefit of all their people in concern. This principle has not only been maintained by all the highest courts of the States in which the question has arisen, but has had the approval of the Supreme Court of the United States in every case which has come before it. (Martin *v.* Waddell, 6 Pet., 367; McCready *v.* Virginia, 94 U. S., 391; Smith *v.* Maryland, 18 How., 71, 74; Manchester *v.* Massachusetts, 139 U. S., 240, 358; Lawton *v.* Steele, 152 U. S., 133; Geer *v.* Connecticut, 161 U. S., 519; The Abby Dodge, 223 U. S., 166.)

DECISIONS CITED.

In McCready *v.* Virginia it was said:

"In like manner the States own the tidewaters themselves and the fish in them, so far as they are capable of ownership while running. For this purpose the State represents its people, and the ownership is that of the people in their united sovereignty."

It is true that this quotation was not absolutely necessary for the determination of the issues in that case, but the question of ownership of the fish in tidewater was indirectly involved, and the learned chief justice who delivered the opinion of the court evidently deemed it necessary to determine it.

In Manchester *v.* Massachusetts a statute of Massachusetts regulating the fishing of menhaden in Buzzards Bay was involved, and it was there held:

"We think it must be regarded as established that as between nations the minimum limit of the territorial jurisdiction of a nation over tidewaters is a marine league from its coast; that bays wholly within its territory not exceeding 2 marine leagues in width at mouth are within this limit; and that included in this territorial jurisdiction is the right of control over fisheries, whether the fish be migratory, free-swimming fish, or free-moving fish, or fish attached to or imbedded in the soil."

In that case the court also quoted with approval from Dunham *v.* Lamphere, 3 Gray, 268:

"That in the distribution of powers between the General and State Governments the right to the fisheries and the power to regulate the fisheries on the coast and in the tidewaters of the State were left by the Constitution of the United States with the States, subject only to such powers as Congress may justly exercise in the regulation of commerce, foreign and domestic."

In Martin *v.* Waddell, after a careful review of the English authorities, it was expressly held that "the public common or piscary belongs to the people in their united sovereignty, and the State holds it in trust for them."

Geer *v.* Connecticut may well be considered the leading case on this subject, as it reviews very learnedly all the law pertaining thereto. Mr. Justice White (now Mr. Chief Justice) reviewed not only the law as it existed under the common law, but under the laws of Solon, the law as it is found in the Institute of Justinian, the Civil and Salic Law, and the Code of Napoleon, and sustained a statute of the State of Connecticut prohibiting the killing of certain game at any time when intended to be conveyed beyond the limits of the State. After reviewing all the authorities, the learned justice summarized the law as follows:

"The foregoing analysis of the principles upon which alone rests the right of an individual to acquire a qualified ownership in game and the power of the State deducible therefrom to control such ownership for the common benefit, clearly demonstrates the validity of the statute of the State of Connecticut here in controversy. The sole consequence of the provision forbidding the transportation of game killed within the State beyond the State is to confine the use of such game to those who own it, the people of that State."

AS TO CONSTITUTIONALITY.

In Sils *v.* Hesterberg (211 U. S., 31) the constitutionality of the New York statute prohibiting the possession of game at certain times was attacked as violative of the National Constitution. That the State was the owner of all the game in the State, whether migratory or not, was not questioned by those attacking the statute, but it was claimed that the State had no power to prohibit the possession of game in the closed season when imported from a foreign country or another State where the killing is not prohibited. The statute was sustained as a proper exercise of the police power to protect the game in the interest of the food supply of the people of that State.

In the Abby Dodge case the principles laid down in the McCready case, that "each State owns the beds of all tidewaters within its jurisdiction unless they have been granted away; also the tidewaters themselves and the fishes in them, so far as they are capable of ownership while running," is reaffirmed.

In Judson on interstate commerce, section 11, the author states the law to be:

"Thus the wild game within a State at common law belongs to the sovereign, and in this country to the people in their collective capacity, and the State therefore has a right to say that it shall not become the subject of commerce."

Even after the game has been reduced to possession there is but a qualified ownership in it, subject to the control of the State. Phelps v. Racey (60 N. Y., 10); Commonwealth v. Savage (155 Mass., 278); Organ v. State (56 Ark., 270); State v. Geer (69 Conn., 144, affirmed in 161 U. S., 519); State v. Northern Pacific Express Co. (58 Minn., 403); State v. Rodman (58 Minn., 393; American Express Co. v. Peoples (133 Ill., 649); ex parte Mayer (103 Cal., 476); People v. Collison (85 Mich., 105); in re Deininger (108 Fed. (C. C.), 623).

The act of Congress of May 25, 1900, chapter 553 (31 Stat., 188), known as the Lacey Act, the constitutionality of which has been sustained—Rupart v. United States (181 Fed., 104; C. C. A., 255)—in effect legalizes the statutes of the States for the control of wild game within their borders whether migratory or not. People v. Hesterberg (184 N. Y., 126).

The claim that the migratory birds are the property of the United States must therefore be held untenable.

It is also argued that Congress has frequently exercised the power to regulate matters which could only have been done under the general police power, and the validity of these acts when attacked as beyond the power of Congress has been upheld. Counsel refers to the lottery acts, the antitrust acts, the national railway legislation, the safety-appliance act, the quarantine laws, the pure food and drugs act, the act regulating mailable articles, and other acts of similar nature. But every one of these acts was upheld under some provision of the Constitution, either that of the Post Office Department, the commerce clause, the taxing power, or some other grant. Whenever Congress or the head of a department went beyond that power, as by including intrastate carriage with interstate, the acts were declared unconstitutional. Trade-mark cases (100 U. S., 92); Illinois Central Railway Co. v. McKendree (203 U. S., 514). The Employees' Liability cases (207 U. S., 463).

It may be, as contended on behalf of the Government, that only by national legislation can migratory wild game and fish be preserved to the people, but that is not a matter for the court. It is the people who alone can amend the Constitution to grant Congress the power to enact such legislation as they deem necessary. All the courts are authorized to do when the constitutionality of legislative acts is questioned is to determine whether Congress, under the Constitution as it is, possesses the power to enact the legislation in controversy; their power does not extend to the matter of expediency. If Congress has not the power, the duty of the court is to declare the act void. The court is unable to find any provision in the Constitution authorizing Congress, either expressly or by necessary implication, to protect or regulate the shooting of migratory wild game when in a State, and is therefore forced to the conclusion that the act is unconstitutional. The demurrer to the indictment will be sustained.

TRIEBER, *Presiding Judge.*

ADDRESS BY SENATOR SMOOT (S. DOC. NO. 487).

Mr. OVERMAN. I ask to have printed as a document the address delivered by the senior Senator from Utah [Mr. SMOOT] at the memorial exercises held on Saturday last at Arlington, Va.

The VICE PRESIDENT. Without objection, that action will be taken.

THE LAW OF PARDON.

Mr. CHAMBERLAIN. I desire to present and ask for the publication as a public document of a little work by Prof. James D. Barnett, professor of political science at the University of Oregon, on the subject of the law of pardon. I ask that it be referred to the Committee on Printing.

The VICE PRESIDENT. It will be referred to the Committee on Printing.

DEMOCRATS MUST PROGRESS.

Mr. NEWLANDS. I ask that an article from the News-Scimitar, of Memphis, Tenn., entitled "Democrats must progress," upon the subject of the importance of taking up constructive legislation with reference to the development of our rivers, may be printed in the RECORD. It is only half a column in length.

Mr. GALLINGER. What did I understand the Senator to say was the title—"Democrats must progress"?

Mr. NEWLANDS. "Democrats must progress." It dwells upon the importance of taking up constructive measures with reference to the development of our rivers.

Mr. GALLINGER. Mr. President, if there is any hope in that direction, the document ought to be printed. [Laughter.]

The VICE PRESIDENT. Is there any objection? The Chair hears none, and the article on progress will be printed.

The matter referred to is as follows:

DEMOCRATS MUST PROGRESS.

Is the future of the national Democratic Party assured? Will the tariff law so reduce the cost of living as to win the plaudits of the masses for the now dominant party? Will the currency law so readjust individual opportunity as to reduce or abate the complained-of evils of concentrated wealth? Or does the great piece of constructive legislation upon which the Democratic Party must rely for continued success at the polls yet remain to be enacted?

These questions more and more are arising in the public mind, and the time for the well-wishers of the party to answer them is now, not after the issue has been drawn and the voters are on their way to the polls.

It is, of course, too early to know with precision what the effect of the tariff law is to be. Democrats generally believe it will do far more good than harm. Republicans generally believe it will do more harm than good. Time alone can settle the issue.

The currency law, by reason of the action of the committee in the placing of the regional reserve banks, has, at the inception of its application, developed much antagonism in various cities.

The President's policy with reference to the Panama Canal tolls question is opposed by many Democrats and Republicans alike.

So it would seem, on the face of the returns thus far, that the future of the party is not yet assured; that the piece of constructive legislation on which the country as a whole can agree is nationally beneficial in a great, big way is yet to be made a law.

The building of the Panama Canal made Roosevelt.

The scientific development of the natural resources of the United States will make Wilson. President Wilson probably appreciates this opportunity, but the Senators and Representatives, as a body, do not as yet seem to have awakened to the fact.

The problems of forestry, soil protection, irrigation, power development, water pollution, and inland navigation are closely linked with the problems of national drainage and flood prevention. The platform pledges of the Democratic Party cover these problems. The public need is urgent. There are vast areas of fertile lands to be protected against overflow; other vast areas need the waters that now go to waste in floods; hydroelectric power development must be depended on more and more as a potential economy of national endeavor.

These problems have been studied scientifically and intelligently by advanced thinkers during many years past, and the thought of such men has been given expression in a splendidly constructive measure known as the Newlands-Broussard river regulation and flood prevention bill. That bill is now awaiting action by Congress.

Its purpose is to give the scientific bureaus of the Federal Government the authority to initiate plans and projects, and the money and power to carry them out, for the control of the drainage of the country, thus relieving drought-menaced and flood-menaced sections, checking soil erosion, correcting the underground water supply, and at the same time developing an enormous continuing national asset of timber, of power, and of inland all-the-year navigable waterways.

Such legislation will live as a perpetual monument to the wisdom of the political party securing it. The toilers of the land will learn to appreciate its benefits more and more. The prosperity of the Nation will increase as a result of it.

The welfare of the country requires such legislation.

So it would seem the part of wisdom for the party in power to enact it with no more delay than is necessary and rest its hope for the future thereon.

THE MISSISSIPPI RIVER (S. DOC. NO. 486).

Mr. NEWLANDS. Mr. President, I ask unanimous consent for the immediate consideration of Senate resolution 358, which has been reported favorably by the Committee on Printing, providing for the publication as a Senate document of an article by Mr. Barnett E. Moses, entitled "The Problem of the Mississippi River." The cost of the printing will be $36.98, and the cost of each additional thousand copies will be $4.00. I ask that the resolution be amended so as to provide for the printing of 5,000 copies.

Mr. BURTON. May I ask the Senator from Nevada whether this document has been already printed, and whether this is an additional edition?

Mr. NEWLANDS. No; it has not been printed. It is a very excellent article.

Mr. BURTON. Who is the author or writer?

Mr. NEWLANDS. Mr. Barnett E. Moses, of the Memphis bar. This is a very able article, relating to "The Problem of the Mississippi River," and I have received numerous requests that it be printed as a public document.

Mr. BURTON. What is it about—the improvement of the river for navigation?

Mr. NEWLANDS. Yes.

Mr. BURTON. Or the matter of protection against floods?

Mr. NEWLANDS. The improvement of the river for navigation and also for the conservation of the adjoining lands.

The VICE PRESIDENT. Is there any objection to the present consideration of the resolution? The Chair hears none.

The Senate, by unanimous consent, proceeded to consider the resolution.

Mr. NEWLANDS. I move to amend the resolution by inserting the words "5,000 copies of."

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to amend the resolution by inserting, in line 1, after the word "That," the words "5,000 copies of," so as to make the resolution read:

Resolved, That 5,000 copies of the manuscript submitted by Mr. NEWLANDS on March 5, 1914, entitled "The Problem of the Mississippi River," by Mr. Barnett E. Moses, of the Memphis bar, be printed as a Senate document.

The amendment was agreed to.

The resolution as amended was agreed to.

PANAMA CANAL TOLLS.

Mr. THORNTON. I ask unanimous consent that the unfinished business, the Panama Canal tolls bill, may be taken up for consideration.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14385) to amend section 5 of an act to provide for the opening, maintenance, protection, and operation of the Panama Canal and the sanitation of the Canal Zone, approved August 24, 1912.

Mr. CATRON. Mr. President, by agreement with the junior Senator from Rhode Island [Mr. COLT], I will waive the com-

mencement of my remarks at the present time so that he may deliver an address which he says probably will not exceed 30 minutes; and by an understanding between him and myself and the junior Senator from Nevada [Mr. PITTMAN] we will defer to that Senator in order that he may introduce an amendment to the bill and submit a few remarks thereon. I wish to have it understood, however, that I do not lose my right to proceed at the close of the remarks of the junior Senator from Rhode Island.

Mr. PITTMAN. I offer an amendment which I ask to have read.

The VICE PRESIDENT. The Secretary will read the amendment.

The SECRETARY. Add a new section, as follows:

SEC. 3. The President of the United States may at any time by proclamation reduce the rate of tolls to be paid by vessels engaged in the coastwise trade of the United States passing through the Panama Canal, or may exempt such vessels from the payment of any tolls, when he is satisfied that such act is advisable for the purpose of securing or maintaining entire equality in the use of the canal and of preventing discrimination against such coastwise vessels: *Provided*, That neither the passage of this act nor anything therein contained shall be construed to waive or impair any treaty or other right possessed by the United States.

Mr. PITTMAN. Mr. President, by the courtesy of the Senator from New Mexico [Mr. CATRON] and the Senator from Rhode Island [Mr. COLT] I have been allowed just a few minutes to make a brief statement. It will take me only about two minutes.

I offer this amendment for the purpose of enabling the President at all times and under every condition to protect the subjects of all nations, including the subjects of the United States, in the use of the canal "on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects," as stated in the Hay-Pauncefote treaty.

The following is submitted in support of the amendment:

First. The treaty does not prescribe that the ships of all nations shall be charged the same rate of tolls, but, on the contrary, provides that the terms shall be such "that there shall be no discrimination."

Two. It is the duty of both parties to the treaty to prevent discrimination in favor of the citizens of either in the use of the canal.

Third. If the exemption from payment of tolls of coastwise vessels passing through the canal would be a discrimination against vessels of British subjects paying the tolls, then it must follow that if the vessels of both countries were required to pay tolls, and Great Britain repaid the amount of such tolls to its subjects and the United States did not repay the amount of such tolls to its citizens, there would be a discrimination in favor of the vessels of the subjects of Great Britain and against the vessels of the citizens of the United States to the amount of the tolls so charged. It is immaterial by whom such tolls were paid so long as not paid by the subjects owning or operating such vessels or charged with such expense. The fact would remain that the vessels of the subjects of Great Britain would be under less burden in passing through the canal, and to such extent would have an advantage over the citizens of the United States.

Fourth. If the vessels of the subjects and citizens of both countries should pay the same rate of tolls, then "entire equality" could only be preserved and "discrimination" prevented by the same rate of refund or subsidy made or granted by both of such countries to its citizens.

Fifth. Great Britain can bring about this equality and eliminate such discrimination by not subsidizing its vessels passing through the canal. The United States, being opposed to direct subsidies, can only secure such equality by reducing the tolls on the vessels of its citizens by an amount equal to the subsidy received by the subjects of Great Britain, or increasing the rate of tolls to be paid by such subsidized vessels, or by preventing subsidized vessels from passing through the canal.

If Great Britain repaid its subjects in the form of a subsidy the full amount of the tolls paid by them, then the United States to avoid such discrimination would be compelled to exempt its citizens from the payment of any tolls. If the British subsidy should be equal to only one-half of such tolls, then the reduction of tolls to citizens of the United States should be only one-half, so the equality could be maintained.

Sixth. If this construction of the treaty is adopted it is unnecessary to determine at this time the many other vexing and doubtful questions, such as whether or not the United States is included in the description "all nations" or whether or not the word "vessels" used in the treaty includes vessels engaged in the coastwise trade. Without admitting that we have no right to exempt our coastwise vessels, we require such vessels to pay tolls until the President is satisfied that such payment is an unjust burden or permits a discrimination against citizens of the United States.

Seventh. This procedure is fully sustained by legislative precedents. By the Payne-Aldrich tariff law the President was authorized to collect the maximum tariff from any country which unduly discriminated against the United States or the products thereof or paid export bounty or export duty or prohibited exportation of articles to the United States, so as to unduly discriminate against the United States or its products, and in the absence of such discriminations to reduce the maximum tariff 25 per cent.

By the Underwood-Simmons tariff law power of protection against such discrimination was granted in the following language:

That whenever any country, dependency, colony, province, or other political subdivision of government shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid in all such cases, in addition to the duties otherwise imposed by this act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

Mr. CATRON. I yield for the present to the Senator from Rhode Island [Mr. COLT].

Mr. COLT. I thank the Senator from New Mexico.

Mr. President, I am in favor of the repeal of the free-tolls provision of the Panama Canal act because I believe that law places us in an indefensible position before the nations of the world in regard to our treaty obligations; because I believe that the law violates the meaning and intent of the Hay-Pauncefote treaty; and because I think that, independent of any treaty, the Panama Canal, like the Suez Canal, should be free and open in time of peace to the vessels of all nations on terms of entire equality.

The vital question in dispute under the Hay-Pauncefote treaty is the question of equality of treatment of all vessels passing through the canal, and by this free-tolls provision we have, arbitrarily and without submitting the question to arbitration, made inequality of treatment the law of the land. In a great international controversy, in which the whole world takes the deepest interest, we have entered judgment in our own favor without the consent of the other party and without giving the other party an opportunity to be heard.

We have taken this action notwithstanding the fact that a treaty is a solemn contract between independent nations, that its obligations are equally binding upon each of the high contracting parties, and that the fulfillment of these obligations rests alone upon honor and good faith.

We have taken this action notwithstanding the fact that where a treaty, owing to the inherent imperfection of language, is capable of two interpretations, and honest differences arise between the contracting parties as to which is the proper interpretation. The United States, in the interest of peace and good will among nations, has been the foremost advocate and champion of the principle that these differences should be submitted to arbitration; and that owing largely to our efforts this principle of arbitration has become an established canon of international law.

We have taken this action notwithstanding the fact that conflicting and irreconcilable differences of opinion exist as to the true interpretation of the Hay-Pauncefote treaty; and that under one interpretation this exemption is a violation of the treaty, and that under another interpretation it is not a violation.

We have taken this action notwithstanding the fact that the legal effect of this exemption is to modify or change the treaty according to the interpretation of the other contracting party.

We all know the legal effect of a later statute upon a treaty. Under the Constitution of the United States, statutes and treaties made in pursuance thereof are the supreme law of the land. Statutes are made by the President, the Senate, and the House of Representatives. Treaties are made by the President and the Senate. Statutes are therefore of equal, if not of greater, authority than treaties. It follows that treaties may be modified, changed, or repealed by acts of Congress. When a treaty and a later statute relate to the same subject the statute will control because it is the later expression of the will of Congress, the effect being that the statute then becomes the supreme law of the land, notwithstanding it may violate the terms of a treaty.

Head Money cases (112 U. S., 590, 599), Whitney *v.* Robertson (124 U. S., 190, 194, 195), and United States *v.* Lee Yan Tai (185 U. S., 213, 221).

In Whitney against Robertson the court said:

In Head Money cases it was objected to an act of Congress that it violated provisions contained in treaties with foreign nations, but the court replied that, so far as the provisions of the act were in conflict with any treaty, they must prevail in all the courts of the country; and after a full and elaborate consideration of the subject it held that, "so far as a treaty made by the United States with any foreign nation can be the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal."

It is clear, then, that if the Hay-Pauncefote treaty and this statute should come before the Supreme Court for adjudication, the court must enforce the statute, although it conflicts with the treaty. What we have done, in legal effect, so far as the United States is concerned, is to insert in rule 1 of article 3 of the Hay-Pauncefote treaty the words, "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," and to make these words controlling; and we have done this without the consent of Great Britain and against her protest.

What we have done has been to settle the vital question in controversy under the Hay-Pauncefote treaty in our own favor by legislation instead of submitting the question to arbitration.

We stand before the world to-day in the case of this great international treaty of refusing to arbitrate and of substituting legislation. I believe this position is indefensible. I believe it is a violation of our treaty obligations toward Great Britain. I believe that it places us in a wrong position before the nations of the world with respect to treaty obligations. I believe this policy is destructive of the whole principle of arbitration, and I believe that the only honorable thing for the United States to do, before taking any other action, is to repeal this law.

Mr. President, the Hay-Pauncefote treaty presents a conflict between the rule of equality and the rule of inequality in the operation of the Panama Canal, and this conflict arises from two different interpretations of the treaty.

Under one interpretation equality is the controlling principle. Under the other interpretation ownership or sovereignty is the controlling principle.

Under one interpretation the canal must be free and open to the vessels of all nations on terms of equality. Under the other interpretation the canal must be free and open to the vessels of all nations on terms of equality, except the United States.

Under one interpretation the United States, being bound by this rule of equality, can not discriminate in favor of her own vessels. Under the other interpretation the United States, not being bound by this rule, can impose any terms she pleases on the passage of her own vessels through the canal. Under one interpretation this is an interoceanic canal open to the vessels of all nations on terms of equality. Under the other interpretation this is an American canal, to be operated for the benefit of the American people.

In seeking for the true interpretation of the Hay-Pauncefote treaty we must ever keep in mind certain facts: The treaty relates to an isthmian canal connecting the Atlantic and Pacific Oceans. The United States and Great Britain had made a former treaty relating to such a canal, known as the Clayton-Bulwer treaty. This was a treaty between Great Britain and the United States as mere users of the canal, under which they entered into an agreement of joint protection, neutralization, and absolute equality of rights. This treaty was made in 1850, and was succeeded by the Hay-Pauncefote treaty in 1901.

The only other interoceanic canal in the world in 1901 was the Suez Canal. In 1888 the owners and the territorial sovereigns of the Suez Canal entered into an agreement as to the rules which should govern the use of this canal. These rules related to equality of treatment of all vessels and to neutralization.

Under the Hay-Pauncefote treaty the United States passed from the position of mere user under a former treaty to a position of owner, and in a provision inserted late in the final draft of the treaty to the possible position of territorial sovereign; and to-day the United States has realized everything which was possibly contemplated by the Hay-Pauncefote treaty. She has become in fact the builder, the owner, and the territorial sovereign of this interoceanic canal.

Bearing in mind these facts the question of the proper interpretation of the Hay-Pauncefote treaty resolves itself into this inquiry: Did the United States in 1901 contract to abide by the rule of equality and substantially the rules of neutralization adopted in the case of the Suez Canal, or did she except herself from these rules and only agree to apply them to other nations?

In determining this question it is necessary that we should look at the conditions which existed at the time since the parties were only dealing with existing conditions.

It is not right, first, to fill our minds with the ideas of ownership, sovereignty, the enormous cost of the canal, transcontinental railroads, subsidies, and party platforms, and then to turn our eyes upon this treaty and see if by some possible construction we can not exclude the United States from the basic rule of equality.

We have before us simply a contract made in 1901, and the only question is what did the parties agree to at that time, and not what would the United States agree to in 1914.

The present controversy turns upon the proper construction of rule 1 of article 3 of the treaty:

ART. 3. The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

RULE 1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

The battle ground of contention is over the meaning of the words "all nations" in rule 1, and the vital question in dispute is whether "all nations" mean all nations including the United States or all nations excluding the United States.

Now, it is true that "all nations" may be so interpreted as to include or exclude the United States. Let us turn for a moment to these two interpretations.

One interpretation is that in reading rule 1 the natural and common-sense meaning of the rule is that "all nations" means all nations, and not all nations except the United States; and this seems clearly to be the meaning when rule 1 is read in connection with the introductory paragraph of article 3, which immediately precedes, in which the United States "adopts"—that is, takes as its own—the "following rules."

There is, however, another interpretation which may be given to this rule and to the words "all nations." If you start with the idea of ownership by the United States and supplement this with the words "observing these rules," and with the words "such nation" following a little later, it is not difficult to reach the construction that this is the case of a proprietor of a canal agreeing to terms of equality with respect to his customers or the users of the canal, and that this in no way binds the proprietor himself to these terms, and, hence, that "all nations" mean all other nations and do not include the United States.

While this is a possible construction of rule 1, it seems strained, and when you consider that the words "observing these rules" were not in the first draft of the treaty and were put there at the instance of Great Britain for a special reason, not material to this inquiry, the interpretation that "all nations" do not include the United States becomes still more artificial.

Looking at this question from the standpoint of 1901 and not of 1914, and remembering that on the face of the treaty the minds of the contracting parties met on the basis of the Suez convention, I think that the surrounding conditions and circumstances demonstrate beyond a reasonable doubt that it was the intention of the parties to include the United States in the rule of equality, and that "all nations" in rule 1 includes the United States. Let me summarize these facts:

First. The free and equal use of navigable channels and waterways has been the traditional policy of the United States for more than 100 years, as shown in the recent notable speech of the senior Senator from Ohio [Mr. BURTON].

Second. The free and equal use of an isthmian canal connecting the Atlantic and Pacific Oceans by all nations on terms of absolute equality has been the settled and uniform policy of the United States for more than 80 years.

The evidence on this point is overwhelming. It is found in presidential messages, instructions by Secretaries of State, resolutions by both Houses of Congress, and in treaties. We may here cite several of these expressions:

The free and equal right of navigating such canal to all such nations on the payment of such reasonable tolls.

To secure to all nations the free and equal right of passage over the Isthmus.

Construction of a great highway dedicated to the use of all nations on equal terms.

For the benefit of mankind on equal terms for all.

Must be for the world's benefit—a trust for mankind.

We may well close these few citations with a quotation from Secretary Blaine's letter to Mr. Lowell:

Nor does the United States seek any exclusive or narrow commercial advantage. It frankly agrees, and will by public proclamation declare at the proper time, in conjunction with the Republic on whose soil the canal may be located, that the same rights and privileges, the same tolls and obligations for the use of the canal, shall apply with absolute impartiality to the merchant marine of every nation on the globe.

Third. For 50 years, from 1850 to 1901, the United States and Great Britain were bound together by a treaty relating to an Isthmian Canal, the basic principle of which was the rule of

equality in respect to the ships, citizens, and subjects of both countries; and this general principle was carried into the preamble of the Hay-Pauncefote treaty as a guide for its interpretation.

Fourth. The United States—and this is the most vital fact of all—adopted in the Hay-Pauncefote treaty the rule of equality of the Suez Convention, of 1888. This was an agreement between Great Britain and the other European powers who owned the Suez Canal, and Turkey and Egypt, the territorial sovereigns, by which they all bound themselves to the rule of equality as to the vessels of all nations passing through the canal.

Here was the only analogy which the contracting parties had to go by. Here was the only interoceanic canal in the world, and the owners and territorial sovereigns had agreed that all nations should be treated on terms of absolute equality; and we find this basic rule carried into the Hay-Pauncefote treaty as Rule 1. Is it conceivable that Great Britain understood that the United States, the prospective builder, owner, and possible territorial sovereign of another interoceanic canal, excepted herself from this rule of equality in the Hay-Pauncefote treaty? The owners and territorial sovereigns of the only existing interoceanic canal had voluntarily agreed, in the interests of commerce and civilization, to include themselves in this rule of equality, and could the United States do less with respect to its projected interoceanic canal? And is it not incredible that Great Britain, with the Clayton-Bulwer treaty still in force with its basic rule of equality, should have consented to the making of a new treaty in which the United States was to be exempted from the rule? And is it not perfectly natural that the American negotiators, having in mind the settled policy of the United States in regard to an Isthmian Canal, and having before them the Clayton-Bulwer treaty, and having also before them what Europe had done with respect to the Suez Canal, should have agreed to adopt the same rule of equality in respect to our Isthmian Canal?

Fifth. But in addition to all this we have the positive testimony of Mr. Choate and Mr. White, two of the American negotiators, that the United States was included in the rule of equality, that this was the basic principle which Great Britain insisted upon during all of the negotiations, and that this rule "excludes the possibility of exemption of any kind of vessels of the United States."

This chain is complete. There is no weak link in it, and the mind is convinced beyond a reasonable doubt that if we construe the Hay-Pauncefote treaty according to the intent of the contracting parties the United States was included in the words "all nations" and bound herself to observe the basic rule of equality.

There is another, but far less fundamental, contention in regard to the Hay-Pauncefote treaty.

It is claimed that "vessels of commerce," in rule 1, do not include coastwise vessels, and nothing in support of this proposition can be added to the argument of the junior Senator from New York [Mr. O'GORMAN] in his recent speech. This contention, however, rests on the arbitrary rule of international law that the term "vessels of commerce" in treaties is always understood to exclude coastwise vessels. If this is an inflexible rule to which there can be no exception, it is difficult to reconcile it with the fact that the United States and Great Britain, in numerous treaties, have been careful specifically to exclude coastwise vessels.

Furthermore, I do not think this is an absolutely inflexible rule that must be applied to all treaties. I believe the true rule is that each treaty should be considered by itself in order to determine this question.

Now, the Hay-Pauncefote treaty relates to a great interoceanic canal; it relates to oceans and continents, and not to rivers, bays, and coast lines, and I think that the broad rule of equality, which is the foundation stone of this treaty, was intended to embrace every vessel flying any flag which passes through this canal. I believe that in the contemplation of this treaty all vessels are over-seas vessels.

If, then, all vessels passing through this canal are over-seas vessels and are included in this class, it is plain that American coastwise vessels are over-seas vessels within the meaning of this treaty, and hence that the exemption of these coastwise vessels would operate as a discrimination against the vessels of other nations. The rule laid down by the Supreme Court in Olsen *v.* Smith (195 U. S., 332) was based entirely upon the proposition that the exemption in that case did not operate as a discrimination, and that case therefore has no application, in my opinion, to the Hay-Pauncefote treaty.

The Hay-Pauncefote treaty as originally framed was a contract between the United States as the prospective builder and proprietor of an isthmian canal and Great Britain, by which the United States agreed to adopt the basis rule of equality in the operation of the canal. This was the first draft of the treaty, and no changes in the subsequent draft in any way affected this rule of equality.

There was, however, an amendment inserted in the final draft which is of great importance. The first draft was dated in 1900, and in October, 1901, just before the final draft was submitted, this provision was added:

ART. 4. It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

Under this provision the United States passes from a prospective proprietor of a canal to a prospective sovereign of the territory on which the canal is built, and this covenant binds the United States to the obligations of the treaty in case she should ever become the territorial sovereign.

The United States had already bound herself as builder and owner, and she now binds herself as territorial sovereign, just as Turkey and Egypt bound themselves as territorial sovereigns in the Suez convention of 1888.

But this covenant did not extend any further than the obligations mentioned in the treaty comprising the rules of equality and neutralization. All her other rights of sovereignty were preserved and are now preserved to the United States just as much as the rights of sovereignty are preserved to Turkey and Egypt under articles 10 and 13 of the Suez convention.

Mr. President, when you have found that an interpretation of a contract agrees with the intention of the parties, all its parts will harmonize with that interpretation. And this is true in the Hay-Pauncefote treaty; every part of it, the preamble, the body of the treaty, and the end, are found to harmonize with the basic rule of equality. On the other hand, if an interpretation is at variance with the real intention of the parties, there is often much trouble in ascertaining the meaning of some of the provisions of the contract. And this is true of those who believe that the United States is excepted from the great principle of equality embodied in rule 1 of the Hay-Pauncefote treaty.

Let me illustrate this by two notable addresses, one by a most profound lawyer and eminent statesman, and the other by an accomplished jurist and a distinguished Member of this body.

With respect to the provision in the Hay-Pauncefote treaty providing that no change of territorial sovereignty shall affect the obligations under the present treaty, Richard Olney says:

But the treaty of November 18, 1901, adds a clause * * * no change of territorial sovereignty of the country or countries traversed by the canal shall affect the obligations of the parties to the treaty, thus assenting in advance to the acquisition by the United States of the territory needed for the canal. Hence, since the United States did afterwards acquire the canal zone, the terms of the November Hay-Pauncefote treaty apply to the case of an artificial waterway constructed by a State on its own territory.

With respect to this provision the Senator from New York [Mr. O'GORMAN] says:

The meaning of this provision is that the rights of the parties shall not be affected by a change in the sovereignty which may occur after the canal is constructed. * * * If sovereignty had been acquired by the United States after the construction of the canal, then this provision would be applicable. * * * The canal has been constructed on territory over which the United States exercises the power of sovereignty, while the canal contemplated by the treaty was to be built on alien soil, and therefore the Hay-Pauncefote treaty is wholly inapplicable.

Here are two irreconcilable constructions of this fundamental provision of the Hay-Pauncefote treaty; according to one construction, this provision contemplated that the canal might be built on American territory, and according to the other construction the canal was to be built on alien territory.

Not only do Mr. Olney and the Senator from New York [Mr. O'GORMAN] give a different interpretation of this provision, but each relies upon a different rule of international law.

Mr. Olney relies upon the rule that a nation constructing an artificial waterway within its own territory may prescribe the terms upon which other nations may use it.

Of course, this rule has no application if the nation agrees by treaty to include itself in a rule of equality of treatment for all nations.

The Senator from New York [Mr. O'GORMAN] in support of his interpretation relies on the rule of international law, rebus sic stantibus, that parties contract with respect to the conditions contemplated at the time, and that the obligations cease to be binding as soon as the conditions are essentially altered.

With respect to this rule it may be observed that the language of this provision in the Hay-Pauncefote treaty is general, and, hence, applies to any change in territorial sovereignty; and,

further, it appears from the official correspondence that this provision was inserted in the treaty by Great Britain to meet the very contingency of the United States becoming the territorial sovereign and of her then invoking the very rule now relied upon by the Senator from New York [Mr. O'GORMAN].

Again Mr. Olney gives force and effect to the "'general principle' of neutralization" which was carried from the Clayton-Bulwer treaty into the preamble of the Hay-Pauncefote treaty. On his construction of the Hay-Pauncefote treaty, this "general principle" applied not to the proprietor of the canal, but only to the users of the canal, which was the status of the United States in the Clayton-Bulwer treaty; and he maintains that the United States is giving full effect to this principle when it treats the users of the Panama Canal on terms of equality.

On the other hand, the Senator from New York [Mr. O'GORMAN], as to this preamble, says:

> The reference to the "general principle" of neutralization in the preamble is, in a strict sense, no part of the treaty. It merely indicates the reason or the occasion for making it. A preamble can not of itself confer any power. * * * It can not be permitted to introduce doubt or uncertainty where otherwise none would exist.

It is apparent that the Senator from New York [Mr. O'GORMAN] gives little or no effect to the preamble as affording a guide to the interpretation of the treaty.

Again, Mr. Olney is of the opinion that the case of Olsen *v.* Smith (195 U. S., 332) bears no analogy and has no application to the "vessels of commerce" in rule 1 of the Hay-Pauncefote treaty.

On the other hand, the Senator from New York [Mr. O'GORMAN] relies upon this case as settling the law that coastwise vessels are not included in "vessels of commerce" in rule 1.

My conclusion is that any interpretation of the Hay-Pauncefote treaty which excludes the United States from the rule of equality with respect to all vessels passing through the canal is contrary to the express terms of the treaty and the manifest intention of the high contracting parties.

Mr. President, I look upon the map of the world and I see two narrow strips of land which hold together great continents and divide great oceans.

It has been the dream of mankind for centuries that passageways might be cut through these narrow strips for the world's benefit. And mankind has demanded that if ever these stupendous undertakings were accomplished, if ever these canals were built, they should be dedicated to civilization and to the commerce of all nations, and that the vessels of all nations should have the right of passage through them on terms of absolute equality. Both of these mighty projects have now been accomplished and the dream of mankind has been realized.

I turn to the Suez Canal, the first of these world waterways to be built, and I find that Europe has recognized the demand of civilization and that this canal has been dedicated to mankind and the commerce of the world. I find that the great powers of Europe, the owners and the territorial sovereigns, entered into a solemn compact by which the use of this canal is secured to the vessels of all nations on terms of entire equality.

I now turn to the Panama Canal and to America, and I find that American genius, energy, and skill have accomplished the second of these vast achievements, and I find the nations of the world asking, What will America do? Will she dedicate this canal to civilization and to the commerce of all nations? Will she, as builder, owner, and territorial sovereign, do as Europe has done? Will she, too, recognize her duty to mankind and decree that the use of this canal shall be free and open to all nations on terms of absolute equality?

And then the thought comes to me: Oh, America, you have been carrying on the most remarkable experiment in government in the world's history. You have taught mankind that self-government is not a failure. You have demonstrated the possibility of an enduring democracy extending over a continent. You have made a Constitution which is the marvel of the world, and which holds in its strong and loving arms 48 imperial States. Your example is spreading democracy over the earth with irresistible force. You have grown big and rich and powerful, until your influence dominates this hemisphere; and at the foundation of all this greatness lies the rule of equality upon which your Government is based; and to-day the nations of the world are only asking you to apply this rule to all vessels which seek to pass from ocean to ocean through the Panama Canal.

Mr. CATRON. Mr. President, the proposition under consideration to be acted upon by the United States Senate is, Shall the clause in the act to provide for the opening, maintenance, operation and protection of the Panama Canal and the sanitation and government of the same, approved August 24, 1912, which says: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States" be repealed? And shall the other language with reference to the tolls be so amended as to absolutely preclude the United States from exempting United States vessels from paying tolls or lowering the tolls which they or any of them shall pay? This, it is claimed should be done on the theory that the language sought to be changed is in violation of the Hay-Pauncefote treaty, as we have been told by the President of the United States in his address made before us on March 5 of this year, in which he says:

> In my own judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view, and is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

He also states in that address:

> The large thing to do is the only thing we can afford to do, a voluntary withdrawal from a position everywhere questioned and misunderstood. We ought to reverse our action without raising the question whether we were right or wrong.

And, then, he further states:

> I ask this of you in support of the foreign policy of the administration. I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure.

It seems that many Members of this body and of the other House of Congress who had on the passage of the act which is now sought to be amended voted for the provisions which the President insists now are in "contravention to the treaty" and "constitute a mistaken economic policy from every point of view," like President Wilson are attempting to cover their tracks and throw the people who are following and watching them off the trail. The President in some way not known to those of us who are not in his confidence is able to command obedience and submission to his will of many of those of his party followers, and that against their expressed, avowed, and recorded opinions and judgments. We find many of them undertaking to give reasons for their change, and giving very different and peculiar reasons therefor. The President does not tell us what is the foreign policy of his administration in support of which he desires us to enact this legislation. He states that he will not know how to deal with other matters of even greater delicacy and nearer consequence which, from the language and the connection in which that statement is used, would probably not refer to his foreign policy, but to something else about which he furnishes us no information and is unwilling to enlighten us with reference thereto. What are the matters of "greater delicacy" than his foreign policy with which he would not know how to deal? Also, what are the "matters of nearer consequence" with which he would not know how to deal? Who can answer the question? Who has attempted to answer the question? Yet this language has been used by the President in order to influence our action on this measure. Section 3, article 2, of the Constitution of the United States, in speaking of the powers and duties of the President, says:

> He shall from time to time give to Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient.

That communication in regard to the foreign policy and "other matters of even greater delicacy and nearer consequence" does not give to Congress any information of the state of the Union. It possibly does recommend to our consideration the measure before us as one which he possibly judges to be necessary and expedient. But should not that judgment of his, under the clause of the Constitution which is stated, be accompanied with information on which we should form our judgment or act? Or is it that the President is allowed to form his own judgment as to what is necessary and expedient and tell us without giving any reason for it or without allowing us to use our judgments? Certainly the address contains no information whatever. Nor does the clause in his address which urges us to "reverse our action without raising the question whether we were right or wrong" give us any information. He asks us to take his judgment for it. It is true that in another part of the address he states that in his "judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view" and is "in plain contravention of the treaty with Great Britain." If it was intended that Congress should blindly follow the will and recommendations of the President as to this legislation, as he in this address urges us to do, "without raising the question whether we were right or wrong," then it may be said that he has made a recommendation on a measure which he judges necessary and expedient, although he gives us no information as to the facts. Can we be expected, without raising the question, to accept that as a reason for the repeal of this law, especially when we find that the party which nominated and elected him to the office which he now holds distinctly advocated the enactment of the law in its present terms

in the platform of principles which they formulated and laid before him and the country as the reasons why they should be placed in power and their candidate elected President? Must we not consider that the will of the people when expressed, after due consideration of the reasons which induced them to elect the party which is now in power to take over the administration of the affairs of this country, should have great weight with the legislators and Executive of the United States in the conduct of the public business and in the enactment of our laws? And must we not also believe that the understanding of the people when they elected the present Executive and the present Congress, and gave them the power they now have, was that the administration and the majority of Congress elected thereon should carry out those principles as construed and interpreted by the members of their convention and their candidates and representatives at the time they were asking to be intrusted with the Government? There was no apparent misunderstanding about the meaning of the language which is incorporated in the Democratic platform. The present Secretary of State, the intimate adviser of the Chief Executive, was chairman of the committee which drafted that platform. The matter of constructing and operating the Panama Canal in the interest of the people of the United States and for the general welfare of the people of the world had long been discussed and debated. The Hay-Pauncefote treaty was then in full force. The act in question had already passed the House and been extensively discussed therein, and particularly the provision under consideration, and the same had been considered in the committee of the Senate at the time the Democratic convention was held. The attention of the present Chief Executive had been called to it and called to it in a way that he sought to avail himself and his party of the benefits to be derived from his then construction thereof.

The President, as before stated, said to us in his address on this matter that we should voluntarily withdraw from "a position everywhere questioned and misunderstood." Did he mean by that that the action of Congress in exempting coastwise ships from toll was everywhere questioned, and also that it was misunderstood? He stated that that action was in contravention with the treaty with Great Britain. Does he properly mean by that that our action as to being in contravention with the treaty was everywhere questioned but that those who questioned it misunderstood it? Can his language be interpreted in any other way? He must have been reading and been impressed with the short biography of Theodore Roosevelt, written by Alfred Henry Lewis about the time of, or shortly after, the modification made in the Hay-Pauncefote treaty of 1901, in which Alfred Henry Lewis, speaking on the subject of the canal, said:

> The propriety of the canal no one American—save transcontinental railways—was ever heard to deny, but to the last crowned head of them, every European ruler, and even the elected one of France, has been and is opposed—they believe with Sir Walter Raleigh that he who holds the Isthmus of Darien holds the keys to the world, and are solicitous that no such lock opener shall hang at the girdle of America.

At the same time the President gives us to understand in that message that our action was misunderstood. How could it have been misunderstood? It was a simple, plain act, expressed in as few words as possible and as pointed as it could be made, and that was that no tolls should be charged on coastwise ships of the United States passing through the canal. That language could not be misunderstood. The purpose of it could not well be misunderstood. But, as stated by Alfred Henry Lewis, to—

> the propriety of the canal * * * to the last crowned head of them, every European ruler, and even the elected one of France, has been and is opposed.

And that is what the President tells us is not debated; he says, outside of the United States, but that it is misunderstood everywhere, and therefore we should take this step recommended by him, whether we were right or wrong in passing that act, although our act in doing so is misunderstood by all other countries, they being opposed to our position. If their opposition is based upon a misunderstanding, why should we reverse it in order to carry out an improper interpretation or understanding of our acts in passing that law?

President Wilson, about August 16, 1912, delivered a very remarkable speech to 2,500 farmers of the State of New Jersey, his own home State, for the purpose of catching votes for himself in that campaign so as to be elected to the high office he now holds. He told them in that speech, in his peculiarly lucid manner, somewhat like the manner he addressed us on the 5th of March last, that—

> By a very ingenious process, which I would not keep you standing in the hot sun long enough to outline, the legislation of the United States has destroyed the merchant marine of the United States.

Then, after making some other statements to flatter their vanity and attract their consideration to himself, he said:

> One of the great objects in cutting that great ditch across the Isthmus of Panama is to allow farmers who are near the Atlantic to ship to the Pacific by way of the Atlantic ports, to allow all the farmers on which I may, standing here, call this part of the continent to find an outlet at ports of the Gulf or the ports of the Atlantic seaboard, and then have coastwise steamers carry their products down around through the canal and up the Pacific coast or down the coast of South America.

And then he proceeds:

> Now, at present there are no ships to do that, and one of the bills pending—passed, I believe, yesterday by the Senate as it had passed the House—provides for free toll for American ships through that canal and prohibits any ship from passing through which is owned by any American railroad company.

And then he says:

> You see the object of that, don't you? We do not want the railroads to compete with themselves, because we understand that kind of competition.
>
> We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent.

He then, to flatter the farmers further, says:

> The farmers of this country are, in my judgment, just as much concerned in the policy of the United States with regard to that canal as any other class of citizens of the United States. Probably they are more concerned than any other one class; and what I am most desirous to see is the farmers of the country coming forward as partners in the great national undertakings and take a wide national, nay, international, view of these great matters, feeling all the pulses of the world that beat in the great arteries of their own life and prosperity. Everything that is done in the interest of cheap transportation is done directly for the farmer as well as for other men. So that you ought not to grudge the millions poured out for the deepening and opening of old and new waterways.

And then he calls attention to the platform and its objects and purposes by saying:

> Our platform is not molasses to catch flies. It means business. It means what it says. It is the utterance of earnest and honest men, who intend to do business along those lines and who are not waiting to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not. They know the American people are now taking notice in a way in which they never took notice before, and gentlemen who talk one way and vote another are going to be retired to very quiet and private retreat.

According to this last statement I think the President may have been somewhat of a prophet. He certainly has talked one way and proposed to vote another when he signs this bill, if it passes. Will he and those who have changed from advocating that measure to catch votes retire voluntarily into very quiet and private retreat? If they do not, most of them may expect the people will retire them to such retreat against their will. The President seems to have been fully assured that the platform was the utterance of earnest and honest men who intend to do business along those lines and who were not waiting to see whether they could catch votes with those promises before they determine whether they are going to act upon them or not. Surely he did not ask to get the votes before he had determined to act upon the promises. His determination must have been fully made up. He had entered upon that determination with a well-based consideration that he would carry it out and was simply presenting it to them in all of his earnestness and in all of his extreme desire to catch their votes and secure his election.

When we take these utterances, given under such circumstances as they were given there, after the principles about which he was talking had been enunciated by over a thousand chosen delegates in the Baltimore convention, selected from those who were supposed to be the best informed and most progressive men of his party, and after he had accepted them as party principles to which he had pledged his adherence, we must naturally suppose that he had them then "fully considered and maturely formed," his judgment in regard to the matters about which he was communicating with the farmers of New Jersey and on which he was soliciting their votes in his behalf.

If such utterances as he made there were made without a judgment fully considered and maturely formed, namely, if they were made from impulse, a desire, and a wish to gain votes without due consideration and reference to the soundness of the proposition advanced, then surely the last clause of that remarkable speech should be made operative as to him and his party; that is, that "gentlemen who talk one way and vote another are going to be retired to very quiet and private retreat." It would seem from the attitude of the President and his party adherents at the present time that the platform utterances of the Baltimore convention were "molasses to catch flies" and nothing else.

Such being the case, well might the President say to us that we ought to reverse our action without raising the question whether we were right or wrong. After taking the position in which he had placed himself by that speech to the farmers and

by his address to us and by his acceptance of the nomination under the platform of his party containing an advocacy of the law which he now wishes repealed he could give no other reason. For us to comply, right or wrong, would be according to his way of dealing with the voters. He has been setting us an example which he expects us to follow. An example in which, it is said by many, he has coerced his political friends into cooperating with him, regardless of whether it is "right or wrong." Every Democrat in the Senate who voted on the motion of Senator BURTON to strike out that free-toll proposition voted against doing so in favor of free tolls. Twenty-two of them did so, and 20 of that number are still here.

But notwithstanding this turncoat policy of the administration or of the Executive who now constitutes the administration, many of us believe that the action taken by Congress in exempting coastwise ships through the canal from the payment of tolls and providing that as to American ships the President could fix the tolls as he pleased or exempt them entirely is "just and equitable," and that it is not in contravention of the Hay-Pauncefote treaty which the President says it contravenes.

Some of the Senators who voted to retain the provision now sought to be repealed have stated that they will now vote to repeal it because it amounts to a subsidy. Why should we not subsidize our ships in order to build up a substantial merchant marine? If we could build up a merchant marine by subsidizing it, would it not save to this country and to our people large volumes of money which are now paid to foreign subsidized ships for freight and passengers annually? Statistics show that we pay hundreds of millions each year to foreign ships to carry our freight and passengers to and from foreign countries, all of which could be kept at home if we had a merchant marine sufficient to do that carrying. Everything else being equal the patriotism of the American would make him prefer the American vessel to the foreign vessel.

At the present time nine-tenths of the passengers and freight of Americans to and from foreign countries is carried in foreign ships. If we had sufficient ships belonging to our countrymen, nine-tenths would be carried in those ships and nine-tenths of the money which is now paid to foreign shipowners by Americans would be paid to American shipowners and kept at home. The amount of money expended in transporting freight and passengers, which should and would annually go in American ships in one year, if used for the purpose of constructing American ships, would enable us to nearly absorb the ocean traffic of the world. That money if paid to the owners of American ships would be invested in the building of other American ships, which would compete for the traffic of the world. It is true that that money would not go into the United States Treasury, but it would go to our people, like all other moneys which are expended in this country. It would permeate every branch of industry. It would help to build ships and every legitimate enterprise in our land.

Many Members of this Congress who now give as a reason that they will not support this free-toll law because it is a subsidy are certainly committed by their former deliberate acts to a contrary proposition. In addition to the law proposed to be repealed, there is in the tariff law which passed this Congress at the extraordinary session an express provision that 5 per cent of the duties on all merchandise imported into the United States in an American registered ship shall be deducted from the duties imposed by that legislation. This is directly in the face of the treaty of 1815 with Great Britain, from which country the great body of our imports come.

In article 2 of that treaty it is specifically and unequivocally stated—

> That no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by a vessel of the United States.

And also—

> The same duties shall be paid on the importation into the United States of any articles the growth, product, or manufacture of His Britannic Majesty's territories in Europe, whether such importation shall be in vessels of the United States or in British vessels.

If the exemption of tolls in favor of our coastwise trade is a subsidy, then is not that reduction upon the amount of duties to be imposed on merchandise brought into the United States in American ships of 5 per cent also a subsidy, and a much clearer and more specific one? That reduction of duties might not only have the character of being a subsidy, but it has the additional character of being, directly, a violation of the treaty of 1815 with Great Britain. Why should the Chief Executive of this Nation and the majority party in this Congress, when they know Great Britain has protested against that reduction as violative of treaties with her, not call for its repeal without considering whether it is right or wrong?

Possibly the party of the majority in Congress have not been quickened into activity in that regard by the spiritual inspiration emanating from a threat to withdraw from them political patronage. The spirit may yet move them.

Is there anything in the treaty which prohibits any nation from reimbursing its subjects for tolls paid through the canal? It is admitted by many here and denied by few, if any, that we have the right to reimburse our ships for the tolls they pay, the same as foreign nations do. Is it not drawing a very technical distinction to say that we can not release the payment of the tolls to the shippers when we have the right to reimburse them for the tolls they pay? The only difference between the two propositions is that the payment by the coastwise ships would go into the general body of the income of the canal, while if they were released from it it would not be added to it.

But where would that make any difference, except as to the United States, when we do not collect enough tolls on the entire shipping going through the canal to pay the total expense of operation, maintenance, sanitation of the canal, interest upon the money invested, and an additional expense of $10,000,000 for the Army and Navy to protect it and keep it neutralized. The deficit in that way will amount to many times as much as the tolls which we will collect from the coastwise ships.

Earl Grey refers to the only plausible point which might be suggested against our exempting tolls to our coastwise ships in his communication to Ambassador Bryce of November 14, 1912, printed in the hearings of the Senate had in reference to this bill, in which he is supposed to have stated the whole objection of Great Britain, on page 1018 of which he says:

> This rule also provides that the tolls should be "just and equitable." The purpose of these words was to limit the tolls to the amount representing the fair value of the services rendered—i. e., to the interest on the capital expended and the cost of the operation and maintenance of the canal. Unless the whole volume of shipping which passes through the canal, and which all benefits equally by its services, is taken into account, there are no means of determining whether the tolls chargeable upon a vessel represent that vessel's fair proportion of the current expenditure properly chargeable against the canal; that is to say, interest on the capital expended in construction and the cost of operation and maintenance.
>
> If any classes of vessels are exempted from tolls in such a way that no receipts from such ships are taken into the account in the income of the canal, there is no guaranty that the vessels upon which tolls are being levied are not being made to bear more than their fair share of the upkeep. Apart altogether therefore, from the provision in rule 1 about equality of treatment for all nations, the stipulation that the tolls shall be just and equitable, when rightly understood, entitles His Majesty's Government to demand, on behalf of British shipping, that all nations passing through the canal, whatever their flag or their character, shall be taken into account in fixing the amount of the tolls.

The point made by him is that by the exemption of any ships from the payment of tolls, the amount which would be required to be charged as tolls on the other ships passing through the canal, in order to pay the current expenditure properly chargeable against the canal, that is, interest on the capital expended in construction and cost of operation and maintenance, would exceed their proper proportion, more than it would be if the tolls were charged upon all ships alike, regardless of their character. That might possibly, in one view of the case, be a fair criticism of the law if it was understood that the tolls should be made sufficiently high to raise the total of all the money necessary to pay the maintenance and operation of the canal and fair interest upon the money invested, and also the costs of the Army and Navy to neutralize the canal, but this law does not require that amount to be imposed. In fact, the law which embraces the clause now sought to be repealed provides that the tolls on no ship shall exceed $1.25 for each registered ton, and shall not be less than 75 cents except on American ships.

With equal propriety the British Government could also object to the limitation in the law that the amount should not be less than 75 cents per registered ton, for the reason that in the course of time the increased shipping passing through the canal may, at the rate of 75 cents per registered ton, raise a higher amount than would be necessary to pay the maintenance and operation of the canal and a reasonable interest. But whatever that rate is, it is not for the British Government or any other Government to say what interest we will impose to reimburse us on our investment or to pay for its use in the canal.

There is no place in the United States where interest to-day is probably less than 4 per cent per annum, and times may come, as it has in the past, when interest will vastly exceed 4 per cent. It may come, also, when the current rate of interest will fall lower than 4 per cent, but it is doubtful that it will ever be much lower. It is true that we have been able to obtain money for 2 and 3 per cent, but that was not because the persons furnishing the money desired it as a simple interest-earning

investment. It was because they could use the bonds for which it was given in the national banks to secure the issue of national-bank currency, and thus obtain the interest upon the money invested in the bonds as well as on the bank stock, giving them much more than 4 or 5 or even 6 per cent interest upon the investment which they made. Take away from the bonds carrying that 2 and 3 per cent the right to use them as a basis for the issuance of national-bank currency and I challenge anyone to show where those bonds will be maintained at par or can be maintained at par. To-day they are below par.

The argument of Earl Grey falls to the ground, because at the lowest rate of interest suggested, which is 3 per cent, the amount which will be raised by the tolls at $1.20 per registered ton will fall far short of the required quantity to pay the entire maintenance and operation of the canal and that interest, not taking into account the cost of the Army and Navy in protecting the canal. The only other question suggested in the argument of Earl Grey on this point is that we would not know how much would be lost by allowing our coastwise shipping to go through the canal free. That is a matter of regulation in the canal. There is no reason why we should not know it. There is no reason why every vessel that passes through the canal should not be inspected and its tonnage ascertained. It would be a mere matter of regulation to require every vessel to be measured and its tonnage ascertained according to the same rules adopted for all foreign vessels and reported to the proper authorities who have to collect the tolls upon other vessels.

It would require no law to do that; we can always know what the exact amount would be that was exempted in favor of such vessels, and whenever that amount reached the point where it would be more than the deficit which our Government would have to make up out of the Public Treasury to pay for the operation and maintenance of the canal and interest and other charges it would then be time enough, if ever, to raise the questions in favor of Great Britain which are now being raised here. It would then be the time when, if she was entitled to it, she could demand an arbitration. But how can Great Britain demand an arbitration until she knows that a discrimination is being made which affects the interests of her shippers or shipowners? How can she demand an arbitration, if at all, until she knows what rate of interest we propose to charge upon the money which we have invested in that canal, as well as all other expenses incidental to its operation and maintenance?

The fact that we have provided for the issuance of bonds to raise money to construct the canal, bearing interest at the rate of 3 per cent, is no reason why that would be an adequate interest to pay the Government for the money invested in that canal. That money was raised at par by our Government simply on account of the condition of banking affairs in the United States.

It may be possible that the management of the banking interest will be radically changed. It is generally asserted by the party in power throughout the land that they have no love for the present national banking system, and they do not believe, as a rule, that bonds should be used to secure the national-bank currency. It was proposed at the commencement of the enactment of the bill to establish regional banks that all bonds should be retired. In that way there would be none of them left upon which to base the issuance of national-bank currency.

If such course should prevail—and who will say that it may not prevail if the party in power continues in power—would it be pretended that this Government could raise money on the issuance of a bond bearing 3 per cent interest, to be held as an ordinary investment, without the right to use it in the manner in which it is now being used, or some equivalent manner? It is difficult to believe that anyone would think so. When we calculate the amounts to be reimbursed to us, we must calculate money at current rates, at the rate it bears, not in the markets of Europe, but in the markets of the United States. The withdrawal of the bonds so that they can not be used for the issuance of national-bank currency, or something equivalent to that, would reduce them below par. Can it be said in estimating the tolls to be imposed to make up these expenses or outlay in the shape of operation and maintenance and interest, as well as other expenses which may be necessary, that we would not have the right to demand interest, even as high as 4, 5, or even 6 per cent if the condition of affairs in this country should require it? And are we not traveling rapidly now in that direction?

By the statements which were incorporated into the RECORD by the Senator from Utah [Mr. SMOOT] a few days since, it appears that the financial policy adopted by the present administration has had the effect to reduce our exports to foreign countries to such an extent, and to increase the imports from foreign countries to such an extent, that the balance of trade during the month of April last was against us, while during the fiscal year last past that balance of trade was about $650,000,000 in our favor. That was $650,000,000 added to the real wealth of our country over and above what will be added to it if conditions continue in the same channel they are now going. How much that balance of trade will hereafter be against us we do not know.

It was about $10,271,872 for the month of April, so that instead of our receiving an addition to our wealth of $650,000,000 annually, we will be paying out and deducting from our wealth about $123,000,000 annually, provided that it does not grow any worse than it was in the month of April; but the facts exhibited show that there is a decided gradual increase in this change of the balance of trade against us, so that we may expect a still greater balance of trade as time goes on under the present laws enacted under the forced conditions imposed by the present administration. If money grows scarce, the rates of interest will increase, and, according to said statistics, money may soon be scarce.

Is the exemption of our coastwise shipping from tolls through the canal a violation of the first clause of article 3 of the Hay-Pauncefote treaty? Does that provision, fairly and legally construed, so hold? It provides:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

It will be noted that the last clause of that section defines what conditions and charges of traffic shall be. What was the necessity of inserting those words "such conditions and charges of traffic shall be just and equitable" if the ships as to tolls should go through upon an entire equality? Possibly, one answer to that might be that the charges should not be excessively great so as to impose unreasonable burdens upon those who pay the tolls. That is possibly one thing that was meant; but the language is not limited to that alone. The words "just and equitable" must be considered in connection with all the circumstances and surroundings in connection with the facts that the United States and its people built that canal and own it and must operate and will be responsible for its neutralization and perpetuity as a channel of traffic; that they must repair it should earthquakes or landslides or other extraordinary events happen which might obstruct it; that to defend it they must keep an army and navy there, and even engage in war and go to extraordinary expense to see that it is protected against interruption or seizure or obstruction in any manner by foreign nations.

The words "just and equitable" contained in the last paragraph of clause 1 of article 3 of the existing treaty were not incorporated in the treaty first agreed upon and ratified by the Senate of the United States with an amendment and which was rejected by Great Britain.

The present treaty made radical changes in the provisions of article 3, being article 2 of the treaty which was not accepted by Great Britain. That proposed treaty contained a paragraph, at the end of clause 5, article 2, which was inserted as an amendment by the Senate of the United States, as follows:

> It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections Nos. 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

Evidently, Great Britain did not wish to give its assent to the provisions of that amendment that she was to be a party to the enforcement of the treaty clauses mentioned in the article 2 of that proposed treaty.

By that article she would have bound herself, jointly with the United States, to the enforcement of all the clauses of the same; whereas in the new treaty, the one now in force, it was provided that the United States alone, and not in conjunction with Great Britain, adopted the rules for the neutralization of the canal; and at the end of clause 1 of article 3 thereof there was inserted the provision "that the conditions and charges of traffic should be just and equitable." Those words were not incorporated in the treaty which was rejected by Great Britain. They must have been inserted by the United States, because the neutralization of the canal was confided entirely to her, and the matter of charges was left entirely to her, she being the sole owner and constructor of the canal and having the entire superintendence and government of it. The purpose of inserting that provision was to be a modification and limitation of the provisions preceding; that is, the terms "entire equality" and "no discrimination against nations."

Would not the words "just and equitable" be considered when the United States should fix the amount of charges which it would impose for the purpose of paying the operation, maintenance, and sanitation of the canal, proper interest on the money invested, including the cost of the Army and Navy in fortifying and protecting it, and even for a sinking fund to pay for the entire amount? Where is the limit imposed upon the United States by those words? We have to decide what is "just and equitable." In article 2 of the Hay-Pauncefote treaty it was provided that the canal might be constructed under the auspices of the United States and that, subject to the treaty, this Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal. That confers upon our Government the entire, absolute, and perfect dominion over that canal.

We have the right under those provisions to regulate the tolls, as we have undertaken to do; and in regulating those tolls we are only required to make them so that they are "just and equitable" according to the circumstances and conditions connected with the canal, of which we ourselves are the sole judges.

Has the time arrived when this question can be properly agitated as to whether we are discriminating or not? Dr. Emery Johnson estimates that the total receipts from tolls, including tolls from coastwise ships, if imposed, would reach about $12,600,000. It is estimated by Col. Goethals that the annual charges for the operation and maintenance of the canal, its sanitation, and the annuity to Panama will amount to over $4,250,000. We have invested, or will have invested, in this canal about $400,000,000 when it shall have been completed, including the cost of fortifying it, the interest upon which, at 3 per cent, will amount to $12,000,000 per annum, which should be paid to us out of incomes, commencing from the time we made the expenditures, or, otherwise, adding the interest in the meantime until the canal is thoroughly opened, to arrive at the sum to constitute the full amount on which the interest shall be computed. This, added to the cost of operation, maintenance, sanitation of the canal, and the annuity to Panama, will not be less than $16,250,000 annually, and may be considerably more, to which must be added $10,000,000 annually for the Army and Navy expenses in protecting and fortifying the canal. So that there will be a deficit, even if the tolls on coastwise ships are imposed, of over $3,800,000 annually, without taking into consideration the Army and Navy expenses, which will have to be paid out of the Treasury of the United States, and this amount will be increased by $4,000,000 if we estimate the rate of interest at 4 per cent, which would be entirely reasonable.

Until the stage is reached in which the tolls shall exceed the amount of operation, maintenance, and sanitation of the canal, annuity to Panama, and a fair interest to be allowed upon the amount invested, besides the Army and Navy expenses in protecting it, what country will have the right to complain that we are discriminating against them? The amount of tolls which will be charged for American coastwise ships estimated by Prof. Johnson will be about $1,200,000 annually, which will, if deducted, reduce the annual income from the canal to about $11,400,000.

But it is said they must be so regulated that there will be no discrimination, and the question arises here, What is a discrimination? And in determining that it will only be necessary to consider whether or not the passage of our coastwise ships through the canal without paying toll constitutes a discrimination. Under our laws coastwise ships can not receive or discharge freight or passengers at any port outside of the United States. They may land at foreign ports for the purpose of repairs or to revictual. When one of them undertakes to go into a foreign port to deliver or receive freight or passengers it is compelled to surrender its license as a coastwise ship under the law. A coastwise ship of a foreign country—and all of them have coastwise ships regulated very much as ours are—can not receive freight at a port in the United States to be discharged at another port in the United States. Our coastwise ships are limited to business along our coast.

All ships of foreign nations, as well as our own, doing business between our ports and foreign ports, in doing business along the coasts of the United States, can only deliver their freight and passengers brought from a foreign port to our country, although they may for that purpose enter different harbors or ports, but they can not take on freight from one port to another; for instance, from New York to Baltimore or Charleston or New Orleans. While they may go from New York to New Orleans to deliver the freight which they have brought across the seas, not one pound can they take up on our coast and carry and deliver to another port on our coast.

Our coastwise ships and all our ships are excluded from doing a coastwise business in foreign countries. All foreign ships are excluded from doing a coastwise business in our country, as well as all of our own ships which are not registered or licensed as coastwise ships. So that the business in which the coastwise ships of Great Britain are engaged, while of a similar character or kind as that in which our coastwise ships are engaged, is absolutely a distinct and different business, not in conflict with or by our coastwise ships. There can be no competition in the most remote degree between the coastwise ships of England and those of America. Neither can do any part of the business which the other can do. Then why say there is a discrimination against the foreign shipping by granting to our coastwise ships free tolls through the canal? We do not take away one penny which can or might be gained by the British shipping. We do not diminish their income in anything.

If we do not do injury or wrong or diminish the earnings of their shipping, or take away their traffic, how can it be said that any law of ours discriminates against them? To do so you would have to go still further and say that by virtue of the Hay-Pauncefote treaty, in order that British ships should be put upon an equality with ours, we should repeal our coastwise ship law and admit Great Britain to do business along our coast with our own ships. But no one will contend for that proposition; if they should, they would certainly be judged to be very un-American and unpatriotic. It is claimed by some that we discriminate against the ships of foreign countries which may bring freight, say, from Liverpool to New York and discharge it there and reship it upon an American coastwise ship to San Francisco, and that therefore we would enable that kind of shipping to discriminate against foreign shipping. But such would in no manner be the result.

It is shown that by reshipping at the port of New York, for instance, it would cost at least 25 cents per ton of 2,000 pounds to unload, and to reload it in the same port another amount of at least 25 cents, which, besides breakage, delay, increase of the distance, and other injury, would more than exceed the $1.20 per registered ton, which is not more than 60 cents per ton of 2,000 pounds, which we have imposed upon the foreign shipping and our own transoceanic ships through the canal. This treaty should be interpreted in accordance with its practical results and not upon theoretical ideas which will never be realized. The discrimination which is prohibited by the treaty must be one that so discriminates between the shipping of our own country and that of others that there will be a loss or injury to the other shipping. In all the arguments which I have noticed in this Chamber and read in the RECORD, I have not yet seen one that points out any substantial injury or loss that will result to foreign ships passing through the canal by exempting our coastwise ships, or any of our ships from paying tolls, until the amount collected shall exceed the sum required for operation, maintenance, sanitation of the canal, the annuity to Panama, interest on the investment, and the Army and Navy expenses to be incurred in defending and protecting the canal.

It is insisted by some and denied by others that our vessels of war, both transports and battleships, should pay tolls in going through the canal. If the reasons mentioned by Earl Grey, that our coastwise ships ought to be charged in order to not oblige foreign shipping to pay a higher rate of toll than would be necessary to pay the operation, maintenance, sanitation of the canal, and interest upon the money invested, should be maintained—and that is all the British Government actually claims—why do not the same reasons prevail as to our vessels of war, including transports and battleships? Why should not the amount be paid by the Nation in order to reduce the proportionate amount that British shipping and the shipping of other foreign nations should pay, so that it can be known and easily ascertained how much it would be just and equitable for foreign nations to pay?

Can there be any distinction drawn between the United States being obliged to pay tolls in order to make up the total amount that is necessary to pay the expenses of operating and maintaining the canal and providing for the interest on the money and payment of other charges and that of requiring our coastwise shipping, or any other American shipping of commerce or war, to pay tolls for that purpose? It is generally admitted that we have the right to pay back or reimburse all our ships for what they have paid out; but it is insisted that we ought to pay it in the first instance, whether reimbursed or not, so as to determine the proportion of the cost of operation, maintenance, sanitation of the canal, and of the proper amount of interest we should bear on our part. Such might be true if the amount when paid by shippers would more than cover the total cost of operation, maintenance, sanitation of the canal, the an-

nuity to Panama, and the costs of the Army and Navy in protecting and fortifying it, but otherwise not.

How can we draw a distinction between our coastwise ships and our vessels of war in paying toll in the face of the treaty which uses both of them in the same connection and without any discrimination or difference between the words applying to them? Yet it is admitted by nearly every one, if not by every one, that our warships should not be charged with tolls, but where the authority comes to do that it is difficult to ascertain from the language of the clause in question if the United States are included in the words "all nations." If the language which provides for the neutralization of the canal applies to the ships of commerce and war of foreign nations and to our own coastwise ships through the canal, then it applies to our ships of war as well. There are no words of exception in favor of our ships of war. I do not believe that the neutralization which is referred to in the treaty applies to the ships of the United States and its citizens. If it did, our warships must be treated in the payment of tolls exactly as our merchant ships, or as the merchant ships of any other nation, or the warships of any other nation.

I believe that the neutralization which is referred to is that which is specified in the second, third, fourth, fifth, and sixth clauses of article 3 of that treaty, and that means that we shall keep that canal from being blockaded, from any act of war being exercised or hostility committed therein, but that can not apply to the United States, nor can the clause which provides that vessels of war of a belligerent shall not revictual or take any stores in the canal except strictly necessary, and that they shall pass through with the least possible delay, in accordance with the regulations in force, which we are to prescribe. Nor the provision that no belligerent shall embark or disembark troops or munitions of war or warlike materials on the canal except in case of accidental hindrance, and so forth. Nor the provision that the vessels of war of a belligerent shall not remain longer than 24 hours in the waters, and so forth. Nor that the vessel of war of one belligerent shall not depart within 24 hours of the vessel of war of another belligerent, or that any of the provisions or clauses of article 3 of the treaty, namely, Nos. 2, 3, 4, 5, and 6, are intended to operate upon the vessels of war of the United States as they do upon the vessels of war of other countries.

If clause 1 is to be construed as a part of the neutralization of the canal, and the other clauses are to be considered according to their actual literal reading, without reference to the circumstances and conditions prevailing and without reference to the fact that we are the owners of the canal, that we built it and are managing and controlling it for the benefit of commerce; then if we were at war with Great Britain or any other country and such country at war with us should seek to seize the canal or to blockade it, we would have no right to disembark an additional force in the canal for its protection, nor to keep our ships within it to prevent it from being seized. We would have to act as any other foreign countries being at war. Our soldiers would have to stay away from the canal. Our ships would have to leave it and get more than 3 miles away from the mouth or entrance to it. We would have to leave it open to our enemies for assault. One of these enemies might be some nation which would be in the category of not even having observed the rules which we had prescribed for the government of the canal. We would not be allowed under that provision, with our ships in the canal, to engage in a battle with the ships of a foreign nation who had sailed into the canal and attacked us.

It is true we might use our forces which we then had there and our guns which we had already established there for the defense of the canal to drive them off, or to prevent their occupying the canal; but if they entered into the canal and got into the big lake through which it passes, where they might find vessels of our fleet, we would not have the right to engage in a conflict with them, if the construction which some place upon this treaty holds good. But will anyone upon a fair consideration of the conditions and circumstances and surroundings of the requirements of that clause and the relation of the facts thereto contend that we would not have a right to keep our fleet there; that we would not have a right to land additional troops there; that we would not have a right to do everything which is prohibited by those different sections of the treaty in order to safeguard and protect that canal for neutral nations and for future use? It may be that it is not very probable that such condition would exist, but it may. We may get into a war with foreign nations who would like to own that canal. Treaties are seldom ever kept in perpetuity. They are sometimes abrogated by agreement. Frequently they are ignored. Often they become obsolete and sometimes broken or violated. Now and then a treaty continues, as has the treaty with Great Britain which acknowledged our independence and which will continue as long as we are an independent Nation.

If Great Britain or Germany should not observe the rules prescribed in article 3 of the treaty, but should get control of the canal and hold it against all others, who would be required to enforce the terms of the treaty? On whom would the obligation to keep the canal free and neutral devolve? It will be noticed the United States was the only power which adopted the neutralization clause of the canal.

This was changed from the provisions of article 2 of the Hay-Pauncefote treaty which was ratified by the United States, but rejected by Great Britain, in which both countries provided for the joint neutralization of the canal. Why was this change made? Certainly it was so made after reconsideration of the provisions of the former treaty, and, possibly, after suggestions which had been made by Great Britain in her objections which were to the amendment which was inserted—clause 5, article 2—in that treaty in regard to using force for the defense of the United States and maintenance of public order in the canal, which it is supposed was the substantial objection that Great Britain made to the ratification of that treaty. It was understood, evidently, that that provision should be rejected and the United States should have the sole power of neutralizing the canal, which meant that they alone should use the necessary force required to keep it neutral.

But if the construction which is said to be placed upon that treaty with reference to the coastwise shipping of the United States must prevail, we have placed ourselves in the attitude of compelling our ships of war to be subject to the same conditions as the ships of war of other nations. We are compelling ourselves to abide by the provisions which, while we are defending the canal against a foreign power, will not allow us to occupy it or deal with it so as to protect it for the use of the world.

I make this contention to call the attention of the Senators to the fact that we are not to be treated in connection with that canal in the same light as other foreign nations; that the rules which we established there were to operate differently upon us from what they should operate upon other nations; that when we prescribed rules as we had a right to prescribe and regulations as we had a right to adopt we did it for foreign nations, with the idea that we might observe them or not, as we liked. That we were not bound by the same restrictions in the treaty with which other nations were bound; that we were dealing with our own property and with our own rights and protecting them against the claims and acts of all nations as far as we deemed it just and equitable to do so.

In construing the words "just and equitable" in the treaty, as I have stated, we must construe them in the light of all the facts and surrounding circumstances; in the light of the ownership or nonownership of the canal; in the light of the obligations or the want of obligations of different nations and ours in regard to the canal and the difference between such obligations; in the light of everything which goes to the construction, maintenance, operation, and government of the canal, and not by a strict construction of the letter of the treaty, which would work absurdity in many instances if such construction was to be made to apply to us. If they do not apply to us with the same obligations and restraints that they do to other countries in article 3 thereof, then every provision of it must be modified or limited when it is intended to apply it to us for our guidance and observation, in accordance with the relation we bear to the canal, different from that which any other country bears. Great Britain had no rights at the Isthmus of Panama when that treaty was entered into. She gave away no rights that she had at that place—ceded nothing. She had agreed that we might construct a Nicaraguan canal or some other canal at some other point where she might have had some rights. She can not interpose herself in this manner and say that we are depriving her of some right which we owe to her on account of some concession made by herself at that isthmus, where she had nothing to concede.

I insist that the rules of neutrality prescribed by the treaty only embrace paragraphs 2, 3, 4, 5, and 6, which are to be enforced by the United States, to do which we can not comply with them as a foreign power. There is a difference between money paid by a foreigner for tolls and that paid by a citizen of the United States. So far as we are concerned, the foreigner's money goes into the Treasury of the United States when paid and stays paid. We do not refund it to him. A citizen's money will go into the Treasury of the United States, but we may refund it to him as a matter of public policy. What is the difference between exempting the tolls of an individual and

refunding them to him after they are paid? Why can not we exempt the party from paying tolls to the same extent as if we repaid them? It is said that the citizens of the United States are not the United States. But the citizens of the United States are not citizens of foreign countries, nor do they occupy the same relation to the United States as citizens of foreign countries. They are entitled to help, protection, and the benefit of legislation.

Our citizens pay for this canal. It has been contended by some that they do not favor the exemption of tolls because that would require the United States to tax the people to pay the amount which is exempted, and also because it would be encouraging a monopoly in the shipping business; that the tax would be compelled to be paid by the poor people who are not prepared to stand it. This contention is contradictory in its terms. It is contended that it would protect a monopoly which should not be protected; also, that it would impose a duty upon the rich, including all monopolies, who they say ought not to be protected. The poor people would not be taxed to make up any deficit which would be caused by exempting the tolls. The tax for that purpose would be raised exactly the same as our revenue is raised to-day.

First, from the incomes of persons having more than $3.000 and from corporations having an income. Certainly there ought to be no complaint on the part of the party in power to increasing the tax very slightly on that class of our people. The next source of revenue from which we obtain taxes is from the sale and manufacture of liquor and tobacco, both of which are counted as luxuries and not entitled to any tender consideration. Certainly they are not entitled to any more consideration than the upbuilding of our shipping. The third source from which we obtain tax is from merchandise imported from foreign countries, nearly all of which imports are never used by or reach people who have an income less than $3.000. The poor people of this country do not purchase foreign-made goods. It is the wealthier class who do that. A great many of the articles imported consists of wines and liquors, silks and satins, and articles of luxury. Very few imported articles reach the poor.

Is there any particular reason why an additional tax may not be imposed upon the wealthy who use the articles imported? It is estimated by Prof. Johnson that the amount of the exemption from taxation would be about $1,200,000, and that is only about one-tenth part of the total amount of the estimated income of the canal. The merchandise which would go through the canal on coastwise ships would nearly all be American products. By reducing the freight we would reduce the price of the same, and as the poorer class use the American products almost entirely they would get the benefit of the free tolls. It has been shown in the arguments and by documents introduced that comparatively small portions of the coastwise ships in this country belong to corporations.

But why should not corporations be encouraged to unite their means and build ships of commerce so as to do our freighting and save the great amount that is expended from going into foreign coffers, from which we never receive any benefit? If an individual accumulates wealth in this country, he most always uses it in this country. He does not let it lie idle. He invests it. He may enter into combinations with various other parties having the capacity to carry on large enterprises, and that is necessary. If such had not been permitted, we would have no railroads in the United States; we would have no rolling mills; we would have no cotton nor woolen factories; we would have a very restricted condition of business enterprise. It would be low in its scale, insignificant in its quantity, and not of a character that reaches out, takes hold of, and develops the country or builds up great establishments in which the people can be employed and from which we can supply the wants of the country without going abroad to do it. It would be better if we could encourage capitalists to build more ships and keep the money at home.

If we could make the coastwise trade profitable to them being engaged in that character of business, they would reach out and across the ocean and carry to and from other countries the exports and imports which we now pay foreign shipowners to carry for us. Free tolls is but a small item. It is an item which we would pay. It should not be granted to any foreign shipowner or freighter, especially until the income becomes so great that it exceeds the amount of the operation and maintenance of the canal, sanitation, cost of the Army and Navy in protecting and fortifying it, a proper payment of interest, and a sinking fund be provided for.

Mr. MYERS. Mr. President, I shall not attempt much more than a brief statement of the reasons for the faith within me that prompts support of the bill for the repeal of that provision of our law which provides toll exemption for our coastwise shipping through the Panama Canal. I am strong in that faith and strong in my convictions in behalf thereof. I had intended to prepare and deliver in this body a more extended address in behalf of repeal, but circumstances over which I had no control have prevented; and, furthermore, at this late day, after such prolonged, profound, and illuminating debate as we have had in this body, upon every phase of the subject in question, presenting every argument, pro and con, it would be inappropriate and presumptuous for me now to attempt any extended argument on the subject. I do not feel that anything that I could say would further illumine the subject or add anything to the very able and learned arguments that have preceded. However, I deem it appropriate and opportune at this time that I give to this body, and to such of my constituents as may feel an interest therein, a simple statement of my reasons for the vote I shall cast in favor of repeal and my views thereof. In doing so I realize that this is a question of large proportions, and I respect the sincerity and honesty of those who hold opposite views, granting to them the same honesty of conviction that I claim for myself.

On the 7th of August, 1912, when the act for the government of the Panama Canal was under consideration in this body and when a vote was had upon the amendment offered by the Senator from Ohio [Mr. BURTON] to subject our coastwise shipping to payment of tolls, I did not vote upon that amendment, being paired with the Senator from Connecticut [Mr. MCLEAN]. I do not know, had I voted thereon, how I would have voted, but presume I would probably have voted with my Democratic brethren against the amendment.

On the 9th of August, 1912, after that amendment had been defeated and when the bill for the general regulation of the canal, including the provision for toll exemption for American coastwise ships, was put upon its passage in this body, I voted for the general act in its entirety, including, as it did, the provision for toll exemption for American coastwise ships. To that extent and that extent only I voted for such toll exemption. Almost up to the time of the roll call I was undecided about how I should vote, because at that time I regarded with disfavor the idea of granting toll exemption to American coastwise ships. It impressed me then as a species of special privilege. According to my recollection, the question of whether or not such toll exemption was a violation of the Hay-Pauncefote treaty had not been very extensively debated at that time. I was in doubt about how I should vote, and was inclined to vote against the entire act until a fellow Democratic Senator, who was sitting next to me, drew on me the Democratic national platform and called my attention to the declaration therein in favor of toll exemption for American coastwise ships. If I had known before that there was such a plank in the Democratic national platform, it had escaped me. That shows how much of an impression it had made upon me, and I doubt not there were millions of other voters upon whom it had made no more impression. I certainly did not hear it read in the convention, although present when the platform was read, and if I afterwards read that particular plank it had for the time escaped my memory. Being in doubt on the subject and not having time for extended reflection, I decided to resolve the doubt in favor of the platform and voted for the bill containing the provision for toll exemption. However, I have been sorry of it ever since. Soon thereafter, upon reflection and deliberation, I concluded that I had done wrong in voting for the bill with that provision in it, and that toll exemption for American coastwise ships was, as I now believe it is, an indefensible subsidy and a special privilege to a favored few at the expense of the many and contrary to Democratic doctrine. Long ago, before the President's message in behalf of repeal, in fact, when I first heard it rumored that Representative ADAMSON or some one else would introduce in the House a bill for the repeal of the toll-exemption provision, I determined that if I should ever have a chance to vote to reverse my former vote I would do so.

As to the contention that the exemption from tolls of American coastwise ships is a violation of the Hay-Pauncefote treaty, while I have not had the privilege of hearing, I have had the pleasure of reading a number of the very able arguments, in each the House and the Senate, for or against repeal, and I have tried to follow closely the reasoning of each; and I must say that the reasons and arguments advanced in behalf of the contention that it is a violation of that treaty are the more persuasive to me.

The Clayton-Bulwer treaty of 1850 between the United States and Great Britain, which was the beginning of our negotiations with Great Britain for the construction of an interoceanic

canal, set forth in plain terms that any such canal constructed should be for the "benefit of mankind, on equal terms to all," thus putting the idea of the construction of such canal on a high plane of lofty principle, for the benefit of the world, utterly unselfish and free from narrowmindedness. It further provided for the strict and complete neutralization of any such canal. That treaty was superseded by the present Hay-Pauncefote treaty. The preamble of the latter refers to the Clayton-Bulwer treaty, and recites that the general principle of neutralization of the last-named treaty should not be impaired by the present treaty, thus continuing in force the general principle of neutralization of the Clayton-Bulwer treaty and making it a part of the spirit of the present treaty. The present treaty then provides, among other things, that the present canal "shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there will be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise."

It seems to me that the words "all nations" include the United States. The treaty does not say "all nations other than the United States." How easy it would have been to have said so had it been so intended! I take it that the words mean all nations of the earth. They certainly can not mean all nations of Europe; all nations of the Eastern Hemisphere; all nations other than the United States. I think they mean all nations of the earth, and the United States is one of the nations of the earth. Learned arguments have been indulged in about the meaning of these words, but I prefer the construction of that great journal, the New York World, which, some weeks ago, said in effect that the words "all nations" need no construction, but speak for themselves and mean literally what they say. I am like the judge who said that the learned arguments of counsel might be all right, but he would decide the case on common sense. It seems to me that common sense indicates that the words "all nations" mean what they say. I am not disposed to give any technical or restricted meaning to them.

Able arguments have been made by learned statesmen to show that the provisions above quoted from section 1 of article 3 of the Hay-Pauncefote treaty do not forbid toll exemption to American coastwise ships. It has been argued that the Hay-Pauncefote treaty did not contemplate the construction of the canal in its present location, that it is located on different territory from what was then contemplated, that we own the territory on which it is constructed, and may do as we please with it, and that the Hay-Pauncefote treaty is thereby abrogated. Yet article 4 of the Hay-Pauncefote treaty says:

It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

That alone might not put beyond doubt the control of the Hay-Pauncefote treaty over the canal, but in 1903, before the construction of the canal was begun, the United States entered into a treaty with the Republic of Panama regarding the construction, operation, and control of the canal, and article 18 of that treaty says:

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901—

Meaning the Hay-Pauncefote treaty; and section 1 of article 3 thereof is the portion thereof heretofore quoted and providing for equality of treatment of all nations and providing that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions or charges of traffic or otherwise. Thus the United States, before beginning the construction of the canal, solemnly pledged its word to the Republic of Panama, from which it obtained the ground on which to construct the canal, that it would be constructed, operated, and conducted in strict conformity with the provisions of our Hay-Pauncefote treaty with Great Britain, thus impressing indelibly upon the canal all provisions of the Hay-Pauncefote treaty, no matter if the canal is constructed in a different place from that once anticipated. Furthermore, our treaty with the Republic of Panama expressly recites that title to the canal strip is vested in the United States, for the purpose of constructing and operating thereon a canal in accordance with the provisions of the Hay-Pauncefote treaty. Thus we hold the strip as trustee for an especial purpose, and should be careful of our trust.

It has been argued ably and with much force that the words "vessels of commerce" have a technical meaning and do not include coastwise ships. Yet our treaty with Great Britain in regard to the Welland Canal uses those words, and they have been held in practice by both nations to include coastwise ships. If they mean coastwise ships for the Welland Canal they mean coastwise ships for the Panama Canal. We have a large number of treaties in regard to shipping with South American republics, and in nearly every instance there is a clause that the provisions of the treaty shall not apply to coastwise ships, showing the intention specifically to exempt them. No such exemption was made nor intention manifested in the Hay-Pauncefote treaty. I do not care to construe the Hay-Pauncefote treaty in a technical way, nor to give technical meanings to its words. I prefer to construe it in a larger and more liberal way, which will be generous to the rights and contentions of others interested.

It has been contended that if we must charge our coastwise ships for passage we must charge our war vessels, but to my mind that contention is not reasonable. Our coastwise ships are owned by individuals or corporations—are privately owned—while our warships are owned by the Government, and there would be no sense in the Government taking money out of its Treasury and paying the same money back into its Treasury as toll for its warships. The law never requires a vain or useless thing to be done.

It has been contended that if we must charge our coastwise ships for passage we have no right to defend the canal in time of war, to victual our ships in it, to embark or disembark troops in it, to load on our warships within its zone munitions of war, or to do in time of war other things forbidden in the Hay-Pauncefote treaty. To my mind that contention is not sound. The right of self-defense is an inherent right. Those provisions of the Hay-Pauncefote treaty refer only to belligerent vessels of war. The United States can not be belligerent to itself. War between any two nations abrogates all treaties of, or as to, those nations. War between the United States and Great Britain would abrogate the Hay-Pauncefote treaty between those two nations. War between the United States and any other nation would abrogate the rights of that nation in or to the use of the canal under the Hay-Pauncefote treaty. The Hay-Pauncefote treaty specifically provides that—

the United States shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

I am profoundly impressed with the learned argument and sound reasoning of Prof. Emory R. Johnson, of the University of Pennsylvania, as evinced in a contribution by him to the April, 1914, number of the North American Review, in which he contends, and I think clearly proves, that coastwise-toll exemption is trade discrimination, evasion of the law, and violation of the Hay-Pauncefote treaty. To my mind his reasoning is invincible and his logic irresistible. He shows that a cargo loaded in Liverpool but intended for San Francisco and shipped in a trans-Atlantic steamer from Liverpool to New York, and there reloaded on an American coastwise ship and carried on to San Francisco via Panama Canal, would under the present condition of the law evade payment of canal tolls, while a like cargo, shipped from Liverpool direct to San Francisco via Panama Canal, would be required to pay toll.

He further shows that goods shipped from New York directly to the Orient via Panama Canal would have to pay canal tolls, while an American coastwise ship could load a cargo at New York and proceed via Panama Canal to San Francisco, and there have the goods reloaded on an oriental steamship and carried to the Orient, or that the coastwise ship, after arriving at San Francisco, could take out clearance for the Orient without unloading at San Francisco and proceed to the Orient without changing the cargo from one ship to another, and in either of the latter events payment of canal tolls would be evaded. I see nothing incorrect in his statements, nothing false in his premises. If his premises are correct, his conclusions are unavoidable and, in my opinion, can not be refuted. Prof. Johnson argues that the present law to exempt from toll American coastwise vessels when the canal may be put in operation would cause fraud, deceit, subterfuge, evasion of law, violation of the principles of our treaty, violence to integrity, and downright dishonesty. I firmly believe that he is correct.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER (Mr. THOMAS in the chair). Does the Senator from Montana yield to the Senator from Kansas?

Mr. MYERS. With great pleasure.

Mr. BRISTOW. Mr. President, I observe that the Senator is quoting from Prof. Johnson in regard to the tolls; and he spoke of transshipment at San Francisco, and said it would be an evasion of the coastwise trade provision, so that, in fact, foreign commerce would go through free. Did the Senator read the hearings of the committee, and does he remember that all of the testimony from practical, experienced men was that the

cost of transshipment at San Francisco, and the delay involved, would exceed the tolls on such cargoes?

Mr. MYERS. No, Mr. President; I did not read all of the testimony before the Senate committee, nor all of that before the House committee. I read most of Prof. Johnson's testimony or statement and that of some others. I now refer to Prof. Johnson's article in the North American Review. I must say that I have not read the phase of the testimony to which the Senator from Kansas refers.

Mr. BRISTOW. If the Senator will examine the hearings, he will find that all of those who appeared before the committee who had experience in shipping and were familiar with the subject from the practical point of view said that it would be impossible to transship in that way without incurring a greater expense than the tolls would amount to.

Mr. MYERS. I gladly take the Senator's statement for that. While the gentlemen who testified to that effect doubtless have had practical experience, which Prof. Johnson has not had, Prof. Johnson is, I believe, professor of the chair of transportation and railroads in the University of Pennsylvania, and has made an exhaustive and lifelong study of the subject, and I think his opinion is entitled to great weight. Of course, I realize that these differences are largely matters of opinion as yet, because they have not been put into practice.

Mr. BRISTOW. I am sorry to impose on the Senator; but if the Senator will examine the matter carefully he will find that Prof. Johnson has expressed opinions on both sides. His books are different from his testimony; so that really, on many of these controverted points, his declarations in his books that were printed a couple of years ago or more and his testimony this year are at variance.

Mr. MYERS. That may be, Mr. President. I take it that Prof. Johnson, in that event, is not the only honest man who has ever changed his mind. I quote from his latest utterance in the North American Review for April, 1914; and I take it that his latest utterance is the one by which he would stand.

I have read with enjoyment quite a number of the learned and able arguments for or against repeal by Members of the House and Members of the Senate. All were illuminating, interesting, and persuasive, and I derived profit as well as pleasure from the reading of all thereof; but, without disparagement to any, I believe that as able, exhaustive, and convincing an argument as I have read in favor of repeal is that made by Hon. FREDERICK C. STEVENS, a Republican Representative from Minnesota. I think his arguments that toll exemption for American coastwise vessels is a violation of the Hay-Pauncefote treaty are convincing and conclusive. Certainly he has no political motive in defending the policies of a Democratic administration or in upholding the hands of a Democratic President. He argues from an independent standpoint, without bias or prejudice, as an American citizen and patriot who has at heart the welfare and honor of his country.

I make no pretensions to being an international lawyer, jurist, or scholar, nor to having any ability along those lines. When eminent, able, and learned international lawyers, jurists, students, and scholars differ upon a great international question, as they do in this case, upon the question of whether or not toll exemption for American coastwise vessels is a violation of the provisions of the Hay-Pauncefote treaty, I set up no ultimatum of my own. I merely say that the arguments of those who contend that it is a violation of the treaty are the more persuasive and convincing to me. However, I believe that upon a question like this, when eminent, able, and conscientious authorities in the persons of distinguished international lawyers, jurists, scholars, and students of our own country differ amongst themselves as to whether or not toll exemption for American coastwise vessels is violative of our treaty with another nation, we should put our national honor above dispute amongst ourselves and resolve any substantial doubt in favor of the larger and more generous construction. The only thing to do is the larger thing; especially, when the President of the United States, himself an able, wise, patriotic, learned man and profound scholar, says that in his opinion toll exemption for American coastwise ships "is in plain contravention of the treaty with Great Britain, concerning the canal, concluded on November 18, 1901"—the Hay-Pauncefote treaty.

Even though toll exemption of American coastwise ships may or may not be violative of the Hay-Pauncefote treaty, be that as it may, I am unalterably opposed to toll exemption for American coastwise ships because I believe it to be an indefensible subsidy, a special privilege to the favored few at the expense of the many, a special privilege to a certain class at the expense of the masses and utterly at variance with the old-time, fundamental Democratic doctrine of equal rights for all and special privileges to none. A subsidy has been defined as "a grant of funds or property from a government to a private person or company to assist in the establishment or support of an enterprise deemed advantageous to the public; any gift of money or property made by one person to another by way of financial aid." President Taft, in one of his messages to Congress about the canal, said that toll exemption for our coastwise ships simply amounted to a subsidy to our coastwise ships and defended it as such. During the debates upon the present bill for repeal a number of Representatives and Senators who have argued against repeal have admitted that toll exemption is a subsidy and treated it as such. It is generally so accepted. I so regard it.

If the United States should donate out of the Public Treasury to the owner of each American coastwise ship a certain sum of money, it would plainly be a subsidy; and who is there who would justify or defend it? What a hue and cry of disapprobation it would raise in this country! The idea of taking by law money out of the pockets of the masses of the people and paying it over perforce to the rich owners of a few coastwise ships would be staggering; yet what is the difference between that and toll exemption? By the present law we are simply exempting from taxation, common to others, a certain class of people—relieving them from taxation at the expense of the people. I can see no practical difference between a subsidy and a discriminatory exemption from taxation; to my mind, it is the same thing in effect, and each is a subsidy. Suppose the great steel-manufacturing plants of this country or the railroads or the banks were by law exempted from payment of taxes and the burden of taxation thereby made the heavier on the rest of the people; would there be any justice in that?

It is estimated that the maintenance and operation of the Panama Canal will cost the people of this country about $17,000,000 per year. It is estimated that the tolls paid by oversea vessels will amount to about $11,000,000 per annum, leaving a deficit of $6,000,000 per annum to be paid by the people of this country. It is estimated that if our coastwise ships should be required to pay toll, they would contribute about $1,000,000 per year to the lessening of the deficit. Manifestly, if they should not be required to pay toll, that $1,000,000 per year, or whatever it may be found to amount to, would have to be paid by the people of this country. Why should the people of this country pay something for the benefit of a few owners of coastwise vessels? The question is, Shall the owners of the vessels pay their toll, or shall the people of this country pay it for them? If the owners of the vessels be not required to pay, the people of the country must pay, and the result is the special privilege of exemption to a favored few at the expense of the masses, and, according to my understanding, that is undemocratic.

It has been estimated that the actual cost to this Government, the actual outlay of cash which the Government will be required to make to put the average American coastwise ship through the canal, will be $2,000. The shipowner will get the benefit of that, and should he be exempted from tolls would not have to pay anything for it, whatever the actual cost might be. He would be getting something for nothing, apparently. I say apparently, because there is no such thing in the economic world as getting something of value for nothing. It may not cost the recipient anything, but it will cost somebody. Somebody has to pay for it. In this case the shipowner would not pay for it, but you and I, everybody, the toiling masses of the country, would pay for it. Would that be right? I believe the worst thing that can be taught a man is that he can get something for nothing. He may try it and succeed so far as cost to him is concerned, but it will cost somebody else something, and if the right man does not bear the cost, somebody else, who should not bear the cost, will have to bear it. It inculcates economic dishonesty.

All the arguments, all the oratory, all the eloquence, all the logic, all the reasoning, all the learning, all the appeals to national pride and patriotism in the world can not get around the solid fact that for a shipowner to have a ship put through the Panama Canal at a cost of $2,000 to the Government of the United States, or of any other sum whatsoever, and at no cost to him, would be giving him something for nothing, but that the people of the United States would have to bear the cost. That is the solid rock in the pathway of those who oppose repeal which can not be evaded nor wiped out of existence. It is a plain, simple fact, of which there can be no denial.

The people of this country have protested for years against a protective tariff. The clamor against it has been loud, long, and strong. The people have decided by their ballots that a law, under the guise of protection to American industries, which legislates money out of the pockets of the masses into the pockets of a few manufacturers, is wrong and they have repu-

diated it as special privilege, contrary to the principles of our Government. For myself I fail to see any difference in principle between protection per se, which levies a tribute upon each of many people and dumps the whole thing into the pockets of a few favored manufacturers, and giving to a few favored coastwise shipowners exemption from tolls at an expense which must be borne by all of the people, a little bit from each one of many for the benefit of a few. I am as much opposed to it as I am opposed to a protective tariff. I consider it as undemocratic as I consider the protective tariff system. Each is protection, favoritism, largess, bounty donation.

It has been said that the people would get the benefit of this toll exemption in the way of reduced freight rates, but there is no assurance of that. I have heard of no offer by American coastwise shipowners, nor any guaranty nor suggestion from them, that they would so lower rates as to give the people the benefit of this exemption. There is no guaranty. In my opinion, no reliance is to be placed upon it. It is giving away substance for shadow. It is giving away something in hand in hopes of getting the same back. Why not keep it while we have it? Why give it away and trust to the generosity of a monopoly to return this largess to the people? Is it not better to keep it in the first instance and know that we will have it, and take no chance on getting it back? Why throw away something in hopes that you will find it and get it back? Do prudent men throw away money and take chances on finding it? To my mind it is unsound and indefensible economy. For many years we have heard the specious claim that in the increased wages paid to American workingmen and the creation of new markets the money taken from the pockets of the masses and bestowed upon a few manufacturers by the protective tariff is returned to the people; but the American people have repudiated that claim. Equally as sophistic and fallacious, in my opinion, is the claim now made that the people would get back the bounty bestowed upon coastwise shipowners by exempting them from payment of tolls. The people are tired of being fooled by monopoly.

The truth of the matter is that American coastwise ships can be charged the regulation toll for passage through the Panama Canal and then they could undercharge by far the transportation charges of transcontinental railroads. The people can get the benefit of an enormous reduction and still charge coastwise ships toll and get what is due for putting such ships through the canal. As to transcontinental railroad rates, it is my understanding that the Interstate Commerce Commission, a body in which the people have great confidence, is clothed with authority to fix interstate freight rates. The transcontinental railroads, great promoters of civilization and prosperity, are entitled to a reasonable rate of interest on their investments, and their rates should not be lowered below that, neither by competition nor by law, and when they charge more than that the Interstate Commerce Commission has all the power needed to reduce their rates.

Expert testimony before investigating committees of the House and Senate shows that the use of the Panama Canal by American coastwise ships in transporting freight between Atlantic and Pacific coast points will save them in cost of transportation from $3 to $3.50 per ton. The toll rate has been fixed at $1.20 per ton for such vessels as are to pay. Thus, it will be seen, coastwise ships could pay the toll of $1.20 per ton and still save in cost of transportation from $1.80 to $2.30 per ton. This alone, if the people should get the benefit of it, would make stanch competition for the transcontinental railroads and result in great saving to the people, at the same time causing no loss to the people by the donation of toll costs to the owners of such ships. Is not that good enough? As a good-sized coastwise ship can carry 5,000 tons of freight at a trip, the saving to the people, if they are really to get the benefit, would be on one trip of such a ship, even though it pay its tolls, an average of $10,250.

It is said that the American and Canadian transcontinental railways are opposed to toll exemption for American coastwise ships. That should scare nobody. If such exemption is wrong, the railroads have a right to oppose it and to voice such opposition, although I have heard none of it, if there be any. That is beside the question. The question should be decided on its merits, on a test of right or wrong, regardless of the attitude of the railroads or anything or anybody else.

American coastwise shipping is already a monopoly. Foreign ships are forbidden by law to engage in the coastwise trade. American ships have a monopoly of it, and now, in addition to that, some would give them a subsidy, largess, bounty, donation, exemption from taxation. Are the American people in favor of giving subsidies to monopolies? If so, there is more than one monopoly that would like to have a subsidy and exemption from taxation. It would doubtless be very pleasing to the American coastwise shipowners to be exempted from payment of tolls. Suppose Congress should enact a law that all professional men, when traveling on business, need pay no railroad fare, on the theory that when they should arrive at their destinations they would charge their clients or patients less than otherwise and the people would get the benefit of the exemption. The professional men would doubtless be pleased, but would the people submit to that? Suppose all bankers, merchants, and business men were by law exempted from payment of interstate railroad fare. Would the people consider that fair? The Government has authorized the building of a railroad in Alaska. Suppose it should enact a law that all bona fide residents of Alaska should be allowed to travel and ship freight on that railroad without cost to them. The people of the United States would have to pay the cost thereof; and would the people of this country uphold that sort of discriminatory legislation at their cost?

It has been urged that the Government has spent millions of dollars in improving its rivers and other internal waterways, and that therefore steamboats operated on them should be charged for that privilege if coastwise ships are to be charged canal tolls. The illustration is not analogous. Our rivers are there by nature—the gifts of God to the people. We have no moral right to charge for the operation of steamboats on our inland waterways. There was no money invested by us in the creation or placing of them. They were put there without cost to us. The mere fact that we choose to appropriate some money to improve them and keep them in order gives us no right to take away from any man the inherent right to operate a steamboat on a great God-given internal waterway, placed there by the Creator for the benefit of all His creatures. We may spend money thereon or not, as we deem best, but any amount of money that we may spend in the improvement thereof is so insignificant as compared with what might be computed in dollars and cents as the equivalent of the original value thereof that it would give us no right to deny any man the right to operate a craft thereon.

To the contrary, we constructed the Panama Canal at the expense of the whole people, at the enormous cost of nearly $400,000,000, and it is our duty to recompense the whole people as much as possible for that tremendous outlay of their money. Col. Goethals, the constructor of the canal, takes the position that those who use it should pay for the privilege, and that it is the duty of the United States to recoup itself as far as possible for the enormous cost of the construction of the canal.

Much has been said about repeal of the toll-exemption law at the dictation of Great Britain. Great Britain protested against it before the enactment thereof, but since its enactment not a word of protest is being heard from Great Britain. Great Britain is not dictating nor demanding the repeal of the toll-exemption law. Nobody is acting at the behest or under the dictation of Great Britain. That assertion will scare nobody. There is nothing to it. President Wilson is not acting at the dictation or behest of Great Britain, and nobody believes he is. Neither are those who are acting with him. President Wilson is looked upon by the overwhelming majority of the people of this country, regardless of politics, as an able, wise, sincere, conscientious, patriotic citizen, who, as man and President, wants to do right and is trying to do right, and trying in a far-seeing, wise, patriotic, unbiased, unprejudiced manner. The people of the country have confidence in his integrity and good intentions.

It has been urged by some with much plausibility and earnestness that the Democratic national platform having declared in favor of toll exemption for American coastwise ships Democrats are bound thereby and should vote against repeal. It matters not how that plank got into the Democratic platform. It rather appears to me that while we were at Baltimore zealously guarding the Democratic national convention against the encroachments of certain big interests and privilege-seeking monopolies, which we feared, a plank was inserted in favor of one monopoly the significance of which failed to catch the attention of the convention.

So far as I am concerned, I am not disturbed about that plank in the Democratic platform. No platform, no party, no power on earth has the right to make me do what I think is wrong. I put right above party platform. I consider that plank un-Democratic and contrary to the fundamental principle of Democracy, which is equal rights to all and special privileges to none. I do not feel bound by any plank in any platform which I deem distinctively un-Democratic and morally wrong. If a Democratic platform contained a declaration in favor of a protective tariff as such, protection per se, I should unhesitatingly renounce it. I would not feel bound by it, because it would be at variance with all the tenets of Democracy. I do not believe, if a Democratic platform should contain a bald declaration in favor of

robbery, I would feel bound by it. I consider protection as nothing but legislative robbery, and I consider toll exemption for American coastwise ships legislative robbery of the people for the benefit of a monopoly. I do not believe in favoring monopolies. Therefore I feel no more bound by this declaration than if it were a declaration of so many words in favor of plain extortion.

I do not believe, anyway, that this declaration in the Democratic national platform had anything to do with the result of the last election—do not believe that the election was influenced by it in the slightest degree. I do not believe that the great majority of the voters knew it was in the Democratic platform nor that one voter out of thousands who may have known it realized its significance. I do not believe it influenced any voters in my State. I have no recollection of having heard it mentioned there. It is charged by some that the President has changed his mind on this question. I do not know that he has. He may possibly feel that conditions have changed. Should he have changed his mind—which I do not know and of which I do not profess to speak—it would not be the first time he had honestly changed his mind when convinced he had been wrong, nor is he the only honest man who has ever changed his mind. In part, the fact that he is President is due to the fact that he is honest and courageous enough to change his mind when convinced that it is right to do so. One of the greatest marks of an honest man is the courage to declare a change of convictions.

While I had decided in my own mind, before the President delivered his message, that toll exemption for coastwise ships was wrong and should be repealed, even had I not so decided, I would be willing to grant the President's request for repeal. He is at the head of our Government. He is the head of the administration. He is more intimately acquainted with foreign affairs than I. In such matters he knows better than I what is best for the country and the people. I have confidence in his wisdom, ability, integrity, patriotism, and devotion to principle. I believe he is fighting an earnest battle for the rights of the people. An army which does not follow its leader will not accomplish anything. I am willing to follow the leader in matters where I have no settled convictions to the contrary or which are not contrary to my conscience. Of course, where I have settled convictions to the contrary or in matters of conscience I am not willing to follow anyone, but otherwise I follow the leader. I have confidence in the President. The people have confidence in him. He is the President of the whole people, regardless of party. I believe he is able, courageous, and honest. When he asks us to repeal the toll-exemption law and says, "I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure," I believe he means what he says and knows what he is talking about, and I am in favor of granting his request. He makes that request not in a party sense nor of us as partisans. He makes it as President of the whole people; makes it of us as Senators, Americans, patriots, regardless of party; and in that sense I here refer to it and favor granting it. In such matters as this he is the leader of all of us—leader in a larger sense than a political sense, in a higher sphere than that of political platforms.

A number of amendments have been offered to the pending bill for repeal. I prefer the bill exactly as it came from the House, without any amendment. I have no particular objection to the amendment suggested by the Senate Committee on Interoceanic Canals, but do not see any need of it. If we have a right to do this thing—repeal the exemption law—it is our privilege to do so outright. If we have no right to do it, we should not do it. I do not believe the amendment offered by the committee adds to or detracts from our rights in the premises. Therefore I would prefer the bill without the amendment, but have no serious objection to it. As to the amendment offered by the Senator from Idaho [Mr. BORAH], to refer the matter to the people at the next election, I know of but one thing to be gained by it, and that is delay.

If the proposed repeal is violative of a treaty, no vote of the people could make it right. If it is not violative, no vote of the people could make it less so. I need no vote of the people to instruct me on the economic phase of the question. It is our business to dispose of this matter, and we should not shirk it by trying to shuffle it off on to the people. As to other amendments offered, I do not believe they better conditions. This is an issue that is before us for settlement. We should meet it directly and without qualification. This Congress is the body which should pass upon the construction of the Hay-Pauncefote treaty. It is a political question. Here and now I consider the place and time to settle this. I believe we should either repeal the exemption or refuse to repeal it, and that it should be settled here and now as to what our policy in that regard will be. I believe we are the people to do it; it is our duty; and I am for outright repeal. I am opposed to the delay arbitration would cause. I am for immediate action.

I believe that the large thing to do is the only thing that we can afford to do. I believe we should act in this matter upon and in accord with the lofty principle of benefit to all mankind in which it was originally conceived; free from all selfishness and suspicion of narrowness. Let us do what we started out to do—erect and perpetuate a lasting monument of great achievement which will show to the world that the American heart throbs with love of all mankind; that the American people are large enough to do a great thing which will redound for all time to the common advancement of the civilization, commerce, prosperity, friendly intercourse, enlightenment, and welfare of all the world, the common good of all mankind—without seeking any paltry, selfish advantage or seeking to give a few dollars to an American monopoly; thus showing that we not only believe in the brotherhood of all mankind, the community of interest of all nations, but that we act in that belief and prove it by our acts. With great respect for the profound learning and honest convictions of those who differ from me, I shall vote for repeal.

I here produce and make a part of my remarks and ask to have incorporated in the RECORD copies of the Hay-Pauncefote treaty and our treaty with the Republic of Panama for the acquisition of the canal strip.

HAY-PAUNCEFOTE TREATY.

The United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries—

The President of the United States, John Hay, Secretary of State of the United States of America;

And His Majesty, Edward VII, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M. G., His Majesty's ambassador extraordinary and plenipotentiary to the United States, who, having communicated to each other their full powers which were found to be in due and proper form, have agreed upon the following articles:

"ARTICLE 1.

"The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

"ARTICLE 2.

"It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscriptions to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

"ARTICLE 3.

"The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal; that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

"2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

"3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

"Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

"4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

"6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents and from acts calculated to impair their usefulness as part of the canal.

"ARTICLE 4.

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutraliza-

tion or the obligation of the high contracting parties under the present treaty.

"ARTICLE 5.

"The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date thereof

"In faith whereof the respective plenipotentiaries have signed this treaty and thereunto affixed their seals.

"Done in duplicate at Washington, the 18th day of November, in the year of our Lord one thousand nine hundred and one.

"JOHN HAY. [SEAL.]
"PAUNCEFOTE. [SEAL.]"

TREATY WITH REPUBLIC OF PANAMA.

The United States of America and the Republic of Panama, being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries—

The President of the United States of America, John Hay, Secretary of State; and

The Government of the Republic of Panama, Philippe Bunau-Varilla, envoy extraordinary and minister plenipotentiary of the Republic of Panama, thereunto specially empowered by said Government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

"ARTICLE 1.

"The United States guarantees and will maintain the independence of the Republic of Panama.

"ARTICLE 2.

"The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of 10 miles, extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea 3 marine miles from mean low-water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of 3 marine miles from mean low-water mark, with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of said enterprise.

"The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described, and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra, and Flamenco.

"ARTICLE 3.

"The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise, if it were sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

"ARTICLE 4.

"As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes, and other bodies of water within its limits for navigation, the supply of water, or water power, or other purposes, so far as the use of said rivers, streams, lakes, and bodies of water, and the waters thereof, may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal.

"ARTICLE 5.

"The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance, and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

"ARTICLE 6.

"The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States, in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation, and protection of the said canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint commission appointed by the Governments of the United States and the Republic of Panma, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said canal or the Panama Railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed, or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

"ARTICLE 7.

"The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights, or other properties necessary and convenient for the construction, maintenance, operation, and protection of the canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal and railroad. All such works of sanitation, collection and disposition of sewage, and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents, or nominees shall be authorized to impose and collect water rates and sewage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of 50 years, and upon the expiration of said term of 50 years the system of sewers and waterworks shall revert to and become the properties of the cities of Panama and Colon, respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

"The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances, whether of a preventive or curative character, prescribed by the United States, and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

"The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

"ARTICLE 8.

"The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Co. and the Panama Railroad Co. as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Co. to sell and transfer to the United States its rights, privileges, properties, and concessions, as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in article 2 of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the canal shall revert to the Republic of Panama, except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

"ARTICLE 9.

"The United States agrees that the ports at either entrance of the canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time, so that there shall not be imposed or collected customhouse tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation, and protection of the main canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the canal.

"The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the canal and for other works pertaining to the canal.

"ARTICLE 10.

"The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the canal, the railways and auxiliary works, tugs and other vessels employed in the service of the canal, storehouses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery, and other works, property, and effects appertaining to the canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works.

"ARTICLE 11.

"The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

"ARTICLE 12.

"The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

"ARTICLE 13.

"The United States may import at any time into the said zone and auxiliary lands, free of customs duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars,

machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation, and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

"ARTICLE 14.

"As the price or compensation for the rights, powers, and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of $10,000,000 in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of $250,000 in like gold coin, beginning nine years after the date aforesaid.

"The provisions of this article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

"But no delay or difference of opinion under this article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

"ARTICLE 15.

"The joint commission referred to in article 6 shall be established as follows:

"The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons, and they shall proceed to a decision; but in case of disagreement of

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the commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments, who shall render the decision. In the event of the death, absence, or incapacity of a commissioner or umpire, or of his omitting, declining, or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the commission or by the umpire shall be final.

"ARTICLE 16.

"The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention, and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies, or misdemeanors without said zone, and for the pursuit, capture, imprisonment, detention, and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies, and misdemeanors within said zone and auxiliary lands.

"ARTICLE 17.

"The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the canal enterprise and for all vessels passing or bound to pass through the canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

"ARTICLE 18.

"The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of and in conformity with the stipulations of the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

"ARTICLE 19.

"The Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war, and supplies.

"ARTICLE 20.

"If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens or subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

"ARTICLE 21.

"The rights and privileges granted by the Republic of Panama to the United States in the preceding articles are understood to be free of all anterior debts, liens, trusts, or liabilities or concessions or privileges to other Governments, corporations, syndicates, or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama, and not to the United States for any indemnity or compromise which may be required.

"ARTICLE 22.

"The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the canal under article 15 of the concessionary contract with Lucien N. B. Wyse, now owned by the New Panama Canal Co., and any and all other rights or claims of a pecuniary nature arising under or relating to said concession or arising under or relating to the concessions to the Panama Railroad Co. or any extension or modification thereof; and it likewise renounces, confirms, and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of 99 years of the concessions granted to or held by the above-mentioned party and companies, and all right, title, and interest which it now has or may hereafter have in and to the lands, canal, works, property, and rights held by the said companies under said concessions or otherwise and acquired or to be acquired by the United States from or through the New Panama Canal Co., including any property and rights which might or may in the future, either by lapse of time, forfeiture, or otherwise, revert to the Republic of Panama under any contracts or concessions with said Wyse, the Universal Panama Canal Co., the Panama Railroad Co., and the New Panama Canal Co.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest or claims of Panama, and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Co. shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

"ARTICLE 23.

"If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

"ARTICLE 24.

"No change either in the government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

"If the Republic of Panama shall hereafter enter as a constituent into any other government, or into any union or confederation of states, so as to merge her sovereignty or independence in such government, union, or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

"ARTICLE 25.

"For the better performance of the engagements of this convention and to the end of the efficient protection of the canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

"ARTICLE 26.

"This convention, when signed by the plenipotentiaries of the contracting parties, shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

"In faith whereof the respective plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

"Done at the city of Washington the 18th day of November, in the year of our Lord 1903.

"JOHN HAY. [SEAL.]
"P. BUNAU-VARILLA. [SEAL.]"

Mr. KERN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Jones	Oliver	Stephenson
Borah	Kenyon	Overman	Swanson
Bristow	Kern	Page	Thomas
Bryan	Lee, Md.	Perkins	Thompson
Burton	Lewis	Pomerene	Thornton
Catron	Lippitt	Root	Tillman
Chamberlain	Lodge	Saulsbury	Vardaman
Chilton	Martin, Va.	Shafroth	Walsh
Clark, Wyo.	Martine, N. J.	Sheppard	Warren
Cummins	Myers	Shively	West
Goff	Nelson	Simmons	White
Gronna	Norris	Smith, Ariz.	
Hughes	O'Gorman	Smoot	

Mr. THORNTON. I was requested to announce the unavoidable absence of the senior Senator from Mississippi [Mr. WILLIAMS].

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum is present.

Mr. O'GORMAN. Mr. President, I do not know whether there is any other Senator who desires to discuss the tolls question to-day. If there is no one prepared to go on now, I ask that the bill be temporarily laid aside.

Mr. KERN. If there are no further arguments to be made upon the bill, I do not see why it should be laid aside. If the debate is ended, I think we should proceed to dispose of the bill.

Mr. O'GORMAN. The Senator might well know that the debate is not ended. Notice, I think, has been given by at least one Senator to speak on Wednesday morning. I know of at least two others who expect to speak during the week. While there may be reasons why a vote on the tolls bill should be expedited, I know equally good reasons for the expedition of the vote on the naval appropriation bill, which had the attention of the Senate for most of last Friday. It may be remembered that after a protracted discussion regarding certain features of that bill we were compelled to adjourn at half past 6 in the evening, because of the absence of a quorum which was needed at the time we were taking a vote, and most of us assumed, when we adjourned at half past 6 Friday evening, that at the earliest opportunity to-day we would resume the consideration of the naval appropriation bill and proceed to take a vote upon the

question which was then pending and which had, indeed, the attention of the Senate for three or four hours.

I know of no one who desires to delay a vote on the tolls question. My own judgment is that all who desire to speak will have made their speeches by Thursday or Friday of this week, at which time we can proceed to vote without delaying action on other matters of vital importance.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from North Carolina?

Mr. O'GORMAN. Yes.

Mr. SIMMONS. I wish to inquire of the Senator from New York, who represents one side of this controversy, whether we can not now agree upon some time for taking the vote.

Mr. O'GORMAN. Personally I shall have no objection to agreeing upon some hour on Friday. I think by that time every Senator who desires to speak will have spoken.

Mr. SIMMONS. I trust the Senator will ask for unanimous consent that that shall be done; and if he does not, I will make the request.

Mr. O'GORMAN. If there be no objection, I ask that we proceed to vote at 4 o'clock on Friday of this week.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Iowa?

Mr. O'GORMAN. I do.

Mr. CUMMINS. I have no disposition to delay a vote upon the bill, but I am constrained to object to fixing an hour for voting upon it. Whenever the majority feels that we ought to consider the bill to the exclusion of all others until a vote is reached upon it, I at least can see no objection to that course; in fact, I think that is the course which ought to be pursued. I shall object at any time to a unanimous-consent agreement for fixing an hour to vote upon the bill. I have no objection to holding it under consideration until we do reach a vote.

Mr. O'GORMAN. Would the Senator have any objection to an agreement to proceed with the consideration of the pending tolls bill to the exclusion of all other business beginning on Wednesday morning of this week?

Mr. SIMMONS. Mr. President——

Mr. CUMMINS. Personally I have no objection.

Mr. O'GORMAN. The reason why I suggest Wednesday is that one Senator has given notice that he will speak on Wednesday morning.

Mr. CUMMINS. One objection will be unavailing, because the majority has it in its own hands to proceed with the consideration of the bill until we reach a vote. I would have no objection to agreeing to do what the majority has it in its power to do, nor do I see any reason for not so doing. My position is that whatever debate occurs hereafter upon the bill ought to occur under such circumstances as that a vote upon the bill or upon some amendment to it can be taken whenever the debate closes. This measure is peculiar in some respects, and I do not think the Senate ought to agree to vote at a specified time upon it. It ought to vote whenever Senators no longer care to speak upon it.

Mr. SIMMONS. Mr. President, if the Senator from Iowa will permit me, the Senator sees—I think he must see—that if an individual Senator is able to control this matter by simply giving notice that he will make a speech at some future day, the whole Senate may be indefinitely held up from reaching a final vote.

Mr. CUMMINS. I do not think it ought to be indefinitely held up.

Mr. SIMMONS. Neither do I.

Mr. CUMMINS. On the contrary, I believe in that kind of debate which is to be followed by action.

Mr. O'GORMAN. I want to ask the Senator from North Carolina if I understand he objects to the proposal I have submitted to the Senate—that after the morning business on Wednesday of this week we take up the tolls bill and proceed, to the exclusion of all other business, with the consideration of the bill down to a vote?

Mr. SIMMONS. I will ask the Senator if, in the place of "Wednesday," he would not be willing to insert "Tuesday morning"?

Mr. O'GORMAN. No.

Mr. SIMMONS. There will be debate sufficient to carry the matter over until Wednesday. The Senator who has given notice that he will speak on Wednesday will not then lose his opportunity.

Mr. KERN. He will be entirely in order.

Mr. O'GORMAN. If the Senator who has announced that he will speak on Wednesday is here, I will say that it is largely out of deference to his notice that I have made the suggestion. I refer to the junior Senator from Mississippi [Mr. VARDAMAN].

Mr. SIMMONS. The junior Senator from Mississippi is here.

Mr. O'GORMAN. If the junior Senator from Mississippi has no objection to proceeding on Tuesday rather than on Wednesday, I have no objection.

Mr. VARDAMAN. Mr. President——

The PRESIDING OFFICER (Mr. SHAFROTH in the chair). Does the Senator from New York yield to the Senator from Mississippi?

Mr. O'GORMAN. I yield to the Senator from Mississippi.

Mr. VARDAMAN. Mr. President, I was assured that a vote could not possibly be reached before Wednesday afternoon; indeed I thought all of the intervening time would be taken up by the Senate in the discussion of this question. I shall not be prepared to discuss it until that time.

Mr. KERN. The Senator does not object to our taking up the bill to-morrow?

Mr. VARDAMAN. I have no objection to the bill being taken up now or to its being taken up at any time; certainly not. The bill has been up to-day. I had no idea there would be any effort to insist upon a vote earlier than Wednesday. I do not see the necessity for this haste. Senators want to discuss the matter. Its discussion has not interfered with the other business before the Senate. I shall not consume very much of the time of the Senate on Wednesday, and I am willing to vote at any time after that when the Senate may desire to vote on the question.

Mr. O'GORMAN. Mr. President, to indicate to the Senate the attitude of the committee, I now give notice that beginning on Wednesday morning next after the conclusion of morning business the tolls bill will be kept before the Senate to the exclusion of all other business until such time as a vote may be reached in due course. I now ask that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. Without objection, it will be so ordered.

NAVAL APPROPRIATIONS.

Mr. THORNTON. I ask unanimous consent that the Senate proceed to the consideration of the naval appropriation bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14034) making appropriations for the naval service for the fiscal year ending June 30, 1915, and for other purposes.

The VICE PRESIDENT. The question is on the amendment on page 56, on which the yeas and nays have been ordered.

Mr. CLAPP. Let the amendment be stated.

The VICE PRESIDENT. The vote on the yeas and nays disclosed the lack of a quorum on Friday evening, and the Senate adjourned with the question pending.

Mr. CLAPP. May we not have the amendment again stated, Mr. President?

The VICE PRESIDENT. The Secretary will state the pending amendment.

The SECRETARY. Under the heading of "Increase of the Navy," on page 56, beginning with the word "One," in line 20, the committee proposed to strike out the remainder of the paragraph. To that amendment Mr. O'GORMAN offered an amendment to strike out, beginning with the words "and the Secretary of the Navy," in line 22, the remainder of the paragraph. The Senate, as in Committee of the Whole, agreed to that amendment.

Mr. CHILTON. What is the pending amendment?

The SECRETARY. So that the following words remain in the House text:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

And the remainder of the paragraph is stricken out.

Mr. CHILTON. Now, what is the pending question?

The VICE PRESIDENT. The Chair thinks it but fair for the Chair to state before the vote is taken upon the amendment as amended that there is this parliamentary situation confronting the Senate: The Senate committee amendment has already been stated by the Secretary. The amendment of the Senator from New York [Mr. O'GORMAN] to the amendment struck out the latter clause only of the amendment as proposed by the committee. The amendment as amended is now the question upon which the Senate is to vote. The parliamentary situation is that, if the amendment as amended be defeated, then does that simply leave in the bill the following words:

> One of the battleships hereby authorized shall be built and constructed at a Government navy yard—

Or does it leave in the bill the entire paragraph as it came from the other House? The Chair is impressed with the idea that if the amendment as amended fails of adoption by the Senate, the entire paragraph remains in the bill, notwithstanding the vote on the amendment as proposed by the Senator from

New York. The Chair feels inclined to make this statement now before the vote is taken on the amendment as amended to the end that, if the Senate do not agree with the opinion of the Chair, it may be otherwise decided by the Senate; or, if the Senate do agree with the ruling of the Chair and desire to take any step whereby the parliamentary situation may be cleared up and the vote be taken simply upon the question of either leaving in the bill or striking out of the bill the paragraph—

One of the battleships hereby authorized shall be built and constructed at a Government navy yard—

That such step may be now taken.

Mr. HUGHES. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Chair has not quite concluded the opinion of the Chair; when the Chair shall have done so, he will then hear the Senator from New Jersey.

In other words, the Chair is impressed with the view that, as the parliamentary situation is now, whichever way the vote goes, either the paragraph in its entirety will stay in or the first clause of the paragraph will stay in the bill.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. The Chair stated that he would first recognize the Senator from New Jersey. The Senator from New Jersey.

Mr. HUGHES. Mr. President, I wish to make a parliamentary inquiry. I desire to know if, in the opinion of the Chair, a vote of "nay" strikes out all of the amendment but leaves the paragraph in the bill as it came from the other House, then would it be possible to offer another amendment to carry out the wishes of the Senate immediately thereafter and to carry out the will of the Senate as expressed on the last day when the Senate considered this proposition? My understanding of this amendment, I will say to the Chair, on Friday night was that a vote of "nay" left the language in the bill:

One battleship hereby authorized shall be built and constructed at a Government navy yard.

The VICE PRESIDENT. The Chair is of the opinion that a vote "yea" would leave that language in the bill, because it is the amendment as amended, and that a vote "nay" would leave the entire paragraph in.

Mr. SWANSON. Mr. President, that is the reverse of the way we voted on Friday night. It seems to me the situation is this: The committee offered an amendment striking out the entire clause. Then an amendment was offered by the Senator from New York [Mr. O'GORMAN] striking only a part of it out. That was carried; that is to strike out the Senate committee amendment; and that amendment was amended to that extent. Now, the committee amendment having been amended to that extent, it is impossible for the Senate to again vote to strike it out. So that the only question that comes up is to strike out the portion which has been left in by the amendment of the Senator from New York to the committee amendment. It would seem to me that a vote of "nay" would leave that in the bill and a vote of "yea" would let it go out, as we voted on Friday night last. It seems to me the decision of the Chair on Friday was clearly correct. The question is now, Shall we keep in the bill the part first amended by the committee's amendment as presented by the Senator from New York?

The VICE PRESIDENT. But the Chair feels that, in justice to the Senator from New York, who did not, in the opinion of the Chair, present his amendment in parliamentary language—the Chair having changed the language of the Senator from New York—the Chair feels, in justice to him, that the situation ought to be explained to the Senate.

The amendment as offered in the language of the Senator from New York was on page 56 to amend the committee amendment by retaining in lines 20, 21, and 22, the words "One of the battleships hereby authorized shall be built and constructed at a Government navy yard." That was the real purpose of the amendment offered by the Senator from New York, to leave this language in the bill and to strike out the remainder of the paragraph; so that, taking into consideration the intention of the Senator from New York, the amendment as amended must be carried in order to comply with the real intention of the Senator from New York.

Mr. O'GORMAN. By common consent and acquiescence and construction on Friday the second paragraph of the clause in question was struck out. I apprehend there will be no objection to submitting to the Senate now the amendment as I proposed it in the precise language just read by the presiding officer, so that the Senate may pass upon the definite proposition, as to whether there will be retained in the bill a provision that one of the battleships hereby authorized shall be built and constructed at a Government navy yard, and that there be a vote on that.

Mr. HUGHES. I ask unanimous consent that the proposition be submitted in that way.

Mr. LODGE. If it is possible to go back to the original proposition of the bill, the committee reported to strike out a certain paragraph; that paragraph is obviously divisible; it carries two propositions, and it can be divided on the request of any Senator. If that were done, the first question would be on agreeing to the committee amendment as to the first clause; and the next question would be, Shall the committee amendment be agreed to as to the second clause? Then we would determine which clause shall stay in and which shall go out or whether they shall both remain in or both go out, as the vote may decide.

The VICE PRESIDENT. The Senator from Massachusetts very clearly states what may be done under the laws of the Senate; but the situation the Chair felt ought to be explained before the vote was taken.

Mr. O'GORMAN. I ask unanimous consent, Mr. President, that the question may be submitted to the Senate in the language suggested in my proposed amendment, namely, that the provision covering the suggestion that "one battleship hereby authorized shall be built and constructed at a Government navy yard" shall be retained in the bill.

Mr. LODGE. I think, Mr. President, if the Senator from New York will allow me, that he ought to add to that request the request that the committee amendment be divided.

Mr. O'GORMAN. I have no objection to that.

Mr. LODGE. And that the vote be taken first on his amendment.

The VICE PRESIDENT. Is there any objection to dividing the question so that the two propositions shall be voted upon separately?

Mr. O'GORMAN. There is no objection to that, as I understand, Mr. President.

The VICE PRESIDENT. The Chair hears none, and it is so ordered.

Mr. LODGE. The question will come first on the first clause, and then the question will come on the second clause.

The VICE PRESIDENT. That is correct. The first clause is:

One of the battleships hereby authorized shall be built and constructed at a Government navy yard.

The committee proposes to strike that out. A negative vote would leave it in the bill. The yeas and nays have been ordered on that question, and the Secretary will call the roll.

Mr. BRYAN (when his name was called). I have a pair with the junior Senator from Michigan [Mr. TOWNSEND] which I transfer to the junior Senator from Arkansas [Mr. ROBINSON] and vote "yea."

Mr. CHILTON (when his name was called). I have a general pair with the Senator from New Mexico [Mr. FALL], but I transfer that pair to the Senator from Tennessee [Mr. SHIELDS] and vote "yea."

Mr. GOFF (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD], and therefore withhold my vote.

Mr. GRONNA (when his name was called). I have a general pair with the Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and vote "nay."

Mr. JONES (when his name was called). I am paired with the Senator from South Carolina [Mr. SMITH], and therefore will have to withhold my vote. If I were at liberty to vote, I should vote "nay."

Mr. O'GORMAN (when his name was called). I have a general pair with the senior Senator from New Hampshire [Mr. GALLINGER]. I am released from that pair on this vote, and I vote "nay."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Florida [Mr. FLETCHER] which I transfer to the Senator from Illinois [Mr. SHERMAN] and vote "nay."

Mr. THORNTON (when the name of Mr. WILLIAMS was called). I am requested to announce the unavoidable absence of the senior Senator from Mississippi [Mr. WILLIAMS], and also that he is paired with the senior Senator from Pennsylvania [Mr. PENROSE].

The roll call was concluded.

Mr. REED. I transfer my pair with the Senator from Michigan [Mr. SMITH] to the Senator from Oklahoma [Mr. OWEN] and vote "nay."

Mr. MYERS. I inquire if the Senator from Connecticut [Mr. MCLEAN] has voted?

The VICE PRESIDENT. He has not.

Mr. MYERS. I have a pair with that Senator, and therefore withhold my vote.

Mr. JAMES. I transfer the pair I have with the junior Senator from Massachusetts [Mr. WEEKS] to the junior Senator from Oregon [Mr. LANE] and vote. I vote "nay."

Mr. HITCHCOCK. I desire to announce that the Senator from Delaware [Mr. SAULSBURY] is absent and paired with the Senator from Rhode Island [Mr. COLT].

Mr. LODGE (after having voted in the affirmative). I have a general pair with the Senator from Georgia [Mr. SMITH], but as he would vote as I have voted on this question I will allow my vote to stand.

Mr. CRAWFORD. I have a general pair with the senior Senator from Tennessee [Mr. LEA]. I transfer that pair to the junior Senator from California [Mr. WORKS] and vote "nay."

Mr. KERN. I desire to announce the unavoidable absence of the following Senators: The Senator from Arkansas [Mr. CLARKE], who is paired with the Senator from Utah [Mr. SUTHERLAND]; the Senator from Texas [Mr. CULBERSON], who is paired with the Senator from Delaware [Mr. DU PONT]; the Senator from New Hampshire [Mr. HOLLIS], who is paired with the Senator from Maine [Mr. BURLEIGH]; and the Senator from Maryland [Mr. SMITH], who is paired with the Senator from Vermont [Mr. DILLINGHAM].

Mr. JONES. I understand I can transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from New Hampshire [Mr. GALLINGER], which I do, and vote "nay."

The result was announced—yeas 15, nays 41, as follows:

YEAS—15.

Bryan	Martin, Va.	Simmons	Tillman
Chilton	Oliver	Stone	West
Lewis	Overman	Swanson	White
Lodge	Shively	Thornton	

NAYS—41.

Ashurst	Gronna	Nelson	Smoot
Borah	Hitchcock	Norris	Stephenson
Brady	Hughes	O'Gorman	Sterling
Bristow	James	Page	Thomas
Burton	Jones	Perkins	Thompson
Catron	Kenyon	Pomerene	Vardaman
Chamberlain	Kern	Reed	Walsh
Clapp	La Follette	Root	Warren
Clark, Wyo.	Lee, Md.	Shafroth	
Crawford	Lippitt	Sheppard	
Cummins	Martine, N. J.	Smith, Ariz.	

NOT VOTING—39.

Bankhead	Gallinger	Newlands	Smith, Ga.
Brandegee	Goff	Owen	Smith, Md.
Burleigh	Gore	Penrose	Smith, Mich.
Clarke, Ark.	Hollis	Pittman	Smith, S. C.
Colt	Johnson	Poindexter	Sutherland
Culberson	Lane	Ransdell	Townsend
Dillingham	Lea, Tenn.	Robinson	Weeks
du Pont	McCumber	Saulsbury	Williams
Fall	McLean	Sherman	Works
Fletcher	Myers	Shields	

The VICE PRESIDENT. The Senate disagrees to the first clause of the Senate committee amendment, to wit, the amendment which proposes to strike out the words "One of the battleships hereby authorized shall be built and constructed at a Government navy yard," and those words remain in the bill.

The question now is upon agreeing to the amendment of the committee proposing to strike out the second clause of the paragraph, reading:

And the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built with the necessary building slips and equipment, and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed.

Mr. OLIVER. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator from Pennsylvania will state his parliamentary inquiry.

Mr. OLIVER. I ask if those words have not already been stricken out of the bill on a point of order?

The VICE PRESIDENT. No.

Mr. REED. A parliamentary inquiry. I remember distinctly on Friday raising the point of order——

The VICE PRESIDENT. That was on the amendment proposed to the committee amendment by the Senator from Mississippi [Mr. WILLIAMS], which raised the amount from $200,000 to $400,000; and the Chair sustained the point of order.

Mr. REED. I stand corrected. As I understand, a vote "yea" at the present time is a vote to strike out of the bill the provision for the $200,000 appropriation?

The VICE PRESIDENT. A vote "yea" is a vote to strike that out of the bill. The question is on agreeing to the committee amendment striking out the second clause of the paragraph. [Putting the question.] By the sound the ayes seem to have it.

Mr. LODGE. Let us have the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). Announcing my pair as before, and its transfer, I vote "nay."

Mr. GRONNA (when his name was called). I have a general pair with the senior Senator from Maine [Mr. JOHNSON]. I transfer that pair to my colleague [Mr. MCCUMBER] and will vote. I vote "yea."

Mr. JAMES (when his name was called). I transfer my pair with the junior Senator from Massachusetts [Mr. WEEKS] to the senior Senator from Nevada [Mr. NEWLANDS] and will vote. I vote "nay."

Mr. MYERS (when his name was called). In the absence of my pair, the junior Senator from Connecticut [Mr. MCLEAN], I withhold my vote.

Mr. REED (when his name was called). I make the same transfer that I announced on a previous vote and vote "yea."

Mr. WARREN (when his name was called). Under the same transfer of pair as heretofore announced, I vote "yea."

The roll call was concluded.

Mr. CLARK of Wyoming. I ask whether the senior Senator from Missouri [Mr. STONE] has voted?

The VICE PRESIDENT. He has not.

Mr. CLARK of Wyoming. Having a pair with that Senator, I withhold my vote.

Mr. CRAWFORD (after having voted in the affirmative). I failed to announce my pair with the senior Senator from Tennessee [Mr. LEA]. I transfer that pair to the junior Senator from California [Mr. WORKS] and will allow my vote to stand.

Mr. JONES. I desire to announce that I have a pair with the junior Senator from South Carolina [Mr. SMITH], and therefore refrained from voting. I also desire to announce that the junior Senator from Michigan [Mr. TOWNSEND] is necessarily absent from the city.

Mr. GOFF. I transfer my pair with the senior Senator from Alabama [Mr. BANKHEAD] to the senior Senator from Connecticut [Mr. BRANDEGEE] and will vote. I vote "yea."

Mr. MYERS. I transfer my pair with the junior Senator from Connecticut [Mr. MCLEAN] to the junior Senator from Nevada [Mr. PITTMAN] and will vote. I vote "nay."

The result was announced—yeas 44, nays 12, as follows:

YEAS—44.

Ashurst	Gallinger	Nelson	Shively
Borah	Goff	Norris	Simmons
Brady	Gore	O'Gorman	Smoot
Bristow	Gronna	Oliver	Stephenson
Bryan	Hughes	Page	Sterling
Burton	Kenyon	Perkins	Thomas
Catron	Kern	Pomerene	Thompson
Chamberlain	La Follette	Reed	Vardaman
Clapp	Lippitt	Root	Walsh
Crawford	Martin, Va.	Shafroth	Warren
Cummins	Martine, N. J.	Sheppard	White

NAYS—12.

Chilton	Lewis	Overman	Thornton
James	Lodge	Smith, Ariz.	Tillman
Lee, Md.	Myers	Swanson	West

NOT VOTING—39.

Bankhead	Fletcher	Owen	Smith, Md.
Brandegee	Hitchcock	Penrose	Smith, Mich.
Burleigh	Hollis	Pittman	Smith, S. C.
Clark, Wyo.	Johnson	Poindexter	Stone
Clarke, Ark.	Jones	Ransdell	Sutherland
Colt	Lane	Robinson	Townsend
Culberson	Lea, Tenn.	Saulsbury	Weeks
Dillingham	McCumber	Sherman	Williams
du Pont	McLean	Shields	Works
Fall	Newlands	Smith, Ga.	

The VICE PRESIDENT. So that portion of the committee amendment which asks to strike out of the bill the following words:

And the Secretary of the Navy is hereby authorized to equip such navy yard as he may designate in which the battleship herein authorized is to be built, with the necessary building slips and equipment, and the sum of $200,000, or such part thereof as may be necessary, is hereby appropriated for the navy yard designated by the Secretary of the Navy in which the battleship is to be constructed—

Is agreed to, and that language is stricken from the bill.

Mr. LODGE. The committee amendments are not yet concluded.

Mr. THORNTON. Mr. President, while that disposes of the last of the committee amendments that are incorporated in the bill, there are various other amendments which will now be submitted, beginning with the one I now send to the desk and ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. After line 13, on page 6, the committee proposes to insert the following paragraph:

That officers who now perform engineering duty on shore only shall be eligible for any shore duty compatible with their rank and grade to which the Secretary of the Navy may assign them.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

Mr. BRISTOW. Mr. President, I should like to know the reasons for that change in the law. Do not officers, when they are on shore duty, get additional pay?

Mr. LODGE. No; they get less.

Mr. BRISTOW. They get less, do they?

Mr. THORNTON. They get less.

Mr. BRISTOW. What is the object of the amendment?

Mr. THORNTON. I will read the object, as stated by the department in its letter to the committee:

The reason for asking for it is that a strict interpretation of existing law narrows the field of duty to which officers who are members of the old Engineer Corps may be assigned. Occasions might arise when it would be desirable to order these officers to other shore duty, where their experience and ability might be availed of, and the proposed amendment would give the Secretary of the Navy the authority necessary to so employ them.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. LODGE. Mr. President——

Mr. THORNTON. Mr. President, I will ask the Senator from Massachusetts please to allow me to complete these amendments, because there probably will be more discussion on the one he wishes to offer than there will be on these. It seems to me we had better get through with those on which there will not be a fight before we take up those on which there will be a fight.

I offer, on behalf of the committee, the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 8, line 9, after the word "agency," the first word in the line, the committee proposes to insert the words "or agencies," so that, if amended, it will read:

Provided, That authority is hereby granted to employ the services of an advertising agency or agencies, etc.

The amendment was agreed to.

Mr. THORNTON. I offer, on behalf of the committee, the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 8, line 17, after the word "reenlistment," the committee proposes to insert "or who has completed four years in the Revenue-Cutter Service and received therefrom an honorable discharge or an ordinary discharge with recommendation for reenlistment."

The amendment was agreed to.

The SECRETARY. On page 8, line 24, after the word "naval," the first word in the line, the committee proposes to insert "or revenue cutter."

The amendment was agreed to.

The SECRETARY. On page 8, line 25, after the words "Marine Corps," the committee proposes to insert "Revenue-Cutter Service."

The amendment was agreed to.

Mr. THORNTON. I offer on behalf of the committee the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 21, line 8, after the word "docks," the committee proposes to insert "and Naval Observatory," so that, if amended, it will read:

For general maintenance of yards and docks and Naval Observatory, namely.

The amendment was agreed to.

Mr. THORNTON. I offer on behalf of the committee the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 22, after the figures "$425,000," in line 2, the committee proposes to insert:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which actually constitute a part of yard maintenance, shall be charged to yard maintenance.

Mr. THORNTON. Mr. President, I will state for the information of any Senator who may desire it that that is in the nature of a substitute for an amendment that went out on a point of order last Wednesday. The object of the other amendment was merely in order that books could be kept so as to show the actual cost of building a ship, and not a fictitious cost. Many Senators said they could not understand the amendment the way it was framed before, and it went out on a point of order, but I think this is so very plain that no one can make the objection that it is not intelligible, and the object of it is good.

Mr. MARTIN of Virginia. Mr. President, I make the point of order that this is general legislation on an appropriation bill.

Mr. VARDAMAN. I ask that the amendment may be stated.

The VICE PRESIDENT. The Secretary will state it again.

The SECRETARY. Under the subhead "Bureau of Yards and Docks," on page 22, line 2, after the numerals "$425,000," the committee proposes to insert the following proviso:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which actually constitute a part of yard maintenance, shall be charged to yard maintenance.

Mr. O'GORMAN. Mr. President, before a ruling is made on the question of order I desire to suggest that the amendment proposed by the committee as embraced in the printed copy of the bill went out Wednesday on a similar point of order. The matter in question is urgently needed by the Navy Department. The amendment was incorporated at the special request of the Secretary of the Navy. It was designed to give him a little more freedom with respect to the method of applying disbursements and keeping books of accounts, and with the view particularly of enabling him to know with some accuracy the exact cost of constructing a ship.

After the previous amendment went out on the point of order the department suggested that an amendment in the language now before the Senate would answer the purpose. It seems to me that it is not subject to the point of order made. This is an appropriation bill, and the amendment is germane to the appropriation. It contains an instruction to the officer who will disburse the money as to how he shall account for it on his books, and I submit that it is not new legislation.

Mr. LODGE. Mr. President, I think the amendment as originally drawn was subject to the point of order, but in its present form it seems to me it is not. Of course it is germane. In its present form it seems to me simply to direct the head under which expenditures for yards and docks appropriated for in this bill shall be classified.

The VICE PRESIDENT. The Chair would like to make an inquiry of the Senator from Massachusetts.

This proviso reads:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated—

Now, there are expenditures appropriated for under very many designations—

which actually constitute a part of yard maintenance shall be charged to yard maintenance.

It is not a proviso on the part of the Senate of the United States that the Secretary of the Navy may use any of the sums appropriated in this bill for yard maintenance, and shall charge them to that account, but it is an amendment, as the Chair reads it, that whatever is appropriated under this bill, for whatever purpose appropriated, which actually constitutes a part of yard maintenance, shall be charged to the yard-maintenance account, whether used for yard maintenance or not.

Mr. LODGE. Mr. President, if that is the interpretation of this amendment, it is not in order, for it involves, then, a transfer of appropriation. I understood from the wording of the amendment that it simply directed that all sums of money, under whatever head appropriated, which were actually expended for yard maintenance should appear as such in the accounts.

The VICE PRESIDENT. But it does not so read.

Mr. LODGE. The objection to the other amendment, as it seemed to me, was that it did involve a liberty of transferring appropriations; and I thought that was clearly general legislation, because the Secretary has no such power now. If this amendment includes a power to transfer appropriations which are not used for yard maintenance, I am sorry to say that I think the point of order lies.

The VICE PRESIDENT. The Chair has read the proviso once. The Chair will read it again:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated—

That manifestly embraces more than yard maintenance.

Mr. LODGE. It embraces all appropriations.

The VICE PRESIDENT. It embraces all appropriations—

which actually constitute a part of yard maintenance, shall be charged to yard maintenance.

Mr. LODGE. It was that limitation that seemed to me to bring it within the rule. "Actually expended for yard maintenance." Of course, under that language the Secretary could not, for instance, transfer the appropriation for the Marine Corps or for the Philadelphia Home, because they are not used for yard maintenance.

Mr. MARTIN of Virginia. He certainly could.

The VICE PRESIDENT. There is an appropriation in this bill for the maintenance of yards and docks.

Mr. LODGE. Yes.

Mr. TILLMAN. But it is not half enough. The department is compelled, under the necessities of the condition, to charge

to yards and docks money which is appropriated for battleships, making them cost a great deal more than they ought to cost.

Mr. WARREN. Then it is clearly out of order. There is no question about that.

Mr. CUMMINS. Mr. President, the necessity for this amendment is so apparent that I feel like saying just one word about it.

I have no difference with the Chair regarding his construction of the amendment as now written; but I suggest to the chairman of the committee that if he would change the amendment so as to read:

All sums lawfully used for yard maintenance in yards in which ships are built shall be charged to yard maintenance account—

I think then it would not be subject to the point of order.

The VICE PRESIDENT. It is not the business of the Chair to make suggestions, but the Chair, as at present advised, would hold this amendment in order if it read in this way:

That all expenditures appropriated for in this bill, under whatever designation appropriated, which do not actually constitute a part of yard maintenance, shall not be charged to the yard-maintenance fund.

It seems to the Chair that would be in order.

Mr. LODGE. Mr. President, I am inclined to think the language suggested by the Chair would meet the difficulty, but I desire to say to the Senate that the reason for attempting to do this is because we do not appropriate properly. We appropriate a certain sum for yards and docks, and then we take out of "Increase of the Navy" other large sums, and use them for yard maintenance.

The appropriations ought not to be made in that way. The "Increase of the Navy" appropriation ought to be reduced, and a corresponding amount added to the maintenance of yards and docks. That is the proper and direct way of getting at it. Then we should not have this difficulty of false costs.

The VICE PRESIDENT. As the amendment now stands, the Chair will hold that it is general legislation; that it is not a limitation upon the expenditure of money by the Secretary of the Navy; but it is general legislation suffering and permitting him to pay, at his discretion, all the moneys appropriated in this bill——

Mr. TILLMAN. Mr. President, before the Chair finishes his ruling. I wish to ask if he will modify the amendment as he suggested and make it in order, because it will accomplish what we are trying to do—prevent bookkeeping from showing things charged to battleships which do not belong there.

Mr. WARREN. Mr. President, if I am in order, I will suggest to the chairman of the committee that the way to meet that difficulty is to enlarge the direct appropriation for yards and docks.

Mr. LODGE. That is the way to do it, of course.

Mr. WARREN. That is regular. The committee have the power to offer such an amendment, and, of course, it would not be out of order.

Mr. MARTIN of Virginia. Mr. President, I simply desire to suggest that it is a most extraordinary thing that the Chair should prepare an amendment to be submitted to the Senate. I have understood that the prerogatives of the Chair were to preside over the Senate, and not to prepare amendments. I object to such an innovation as that on the proceedings of a legislative body.

The VICE PRESIDENT. The Chair will sustain the point of order to the amendment as presented.

Mr. O'GORMAN rose.

Mr. LODGE. I now offer, on behalf of the committee——

Mr. THORNTON. Mr. President, I wish to say to the Senator from Massachusetts that the committee has not finished offering its amendments. As soon as it has done so I will give way to him.

Mr. LODGE. Very well. I think the Senator had better offer the amendment himself. I will send the amendment to him. I was simply authorized and directed, by a unanimous vote of the committee, to offer it.

Mr. THORNTON. I wish to say to the Senator that I have not the slightest objection to his offering the amendment, but I did ask him to wait until we got through with these others, and then offer it. I am perfectly willing for him to offer it, but I do not want him to put it in that way, as if I were objecting to his offering it. All I asked in the beginning was that he should wait until we got through with these.

Mr. LODGE. I thought the Senator had concluded, because I saw that the Senator from New York [Mr. O'GORMAN] was about to offer an amendment. I think, however, the Senator from Louisiana had better offer this amendment. He is acting as chairman, and I think he had better take charge of it.

Mr. O'GORMAN. I offer as a substitute, on behalf of the committee, an amendment to take the place of the one which was just proposed, and to which the point of order was sustained.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 22, after the numerals "$425,000," it is proposed to insert:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which are actually expended for yard maintenance, shall be charged to yard maintenance.

Mr. MARTIN of Virginia. I make the same point of order.

The VICE PRESIDENT. The Chair overrules the point of order. The question is on agreeing to the amendment, unless there is an appeal from the ruling of the Chair.

Mr. WARREN. Mr. President, if that is to be the construction hereafter in appropriating for the various subjects in appropriation bills, we might as well appropriate in a lump sum one hundred and odd millions for the Navy, and let it go at that.

Some years ago an attempt was made in the Senate to have the naval bill subdivided as is the Army bill and as are other appropriation bills. As these bills originate in the House, the best that could be done was to incorporate in the bill certain language calling on the department to estimate in future in the manner that estimates are made for other bills. As a matter of fact, either the department has not so estimated or, if it has so estimated, those erecting the appropriation bill have not paid attention to it, except as to the Marine Corps and the Naval Academy.

One who is familiar with appropriation bills, if he looks through this bill, will find that when he comes to the Marine Corps and the Naval Academy more proper subdivisions are made; the amounts are subdivided so that we can tell where the money goes; but as to the balance of the bill, we start in here with the very first paragraph, as follows:

The Secretary of the Navy shall send to Congress at the beginning of its next regular session a complete schedule or list showing the amount of money of all pay and for all allowances for each grade of officers in the Navy, including retired officers, and for all officers included in this act and for all enlisted men so included.

That language has been in every naval appropriation bill for five or six years, and it has been deliberately ignored every year in building up this bill. As a matter of fact, we find slush funds here, over $40,000,000 in one, and various sums running up to several millions in others; and not satisfied with that, there seems to be a proposition in this amendment offered now to take what has been heretofore in a slight degree subdivided and practically put it into one fund and make it apply throughout the bill.

I have no objection to appropriations of the proper sum for navy yards and docks, but it ought to be done in the regular way. If we are going to have any rule or any law or any order or any knowledge or any economy about appropriations, we ought not to hide them under a bushel, as has been done here year after year as to a part of the naval bill. When, now, the broad proposition comes that we put in the bill an amendment that enables the department to take any amount of money anywhere in the bill that it wants for yards and docks, as I have said, we might just as well strip it and say "$150,000,000," or whatever is necessary, "for the Navy," and let it go at that.

Mr. CRAWFORD. May I ask the Senator from Wyoming if the real purpose of this amendment, instead of being to promote correct bookkeeping, is not simply to give authority to these people to use funds for this purpose which have been appropriated for one purpose?

Mr. WARREN. Certainly.

Mr. CRAWFORD. Then why not say so?

Mr. WARREN. That is the direct effect of it.

Mr. CRAWFORD. It seems to me that, instead of seeking to promote correct bookkeeping, it is to secure authority to divert an appropriation from the purpose named and to use it for another purpose.

Mr. WARREN. It is to give authority to the directing power to take the money and use it as they wish instead as we have intended to appropriate it.

Mr. JONES. I should like to ask the Senator from New York whether or not this amendment permits money that has been appropriated for maintenance purposes to be used for maintenance purposes.

Mr. O'GORMAN. It states, in substance, that the money which has been actually expended for yard maintenance shall be charged up to yard maintenance. By an erroneous system which has heretofore prevailed it has appeared that items of expenditure made in connection with yard maintenance have been added to the actual cost of the construction of a ship. There is one instance in the case of the *New York*, built recently in the

Brooklyn Navy Yard. The overhead charge for yard maintenance aggregated more than a million dollars; yet it was charged as a part of the cost of actual construction of the ship, as was stated by the distinguished chairman of the Naval Committee, the Senator from South Carolina [Mr. TILLMAN], a few days ago.

Unhappily, in years past private shipyard interests in this country have had a sufficient influence respecting the methods of keeping the books of the Navy Department to make it appear that the building of ships by the Government was far more expensive than the building of like ships by private enterprise. The time has now come when that system should be changed and the evil should be eradicated, and it is the judgment of the Secretary of the Navy as well as the judgment of most of the members of the Naval Committee, if not of all, that that system will be changed by the adoption of this amendment.

Mr. WARREN. This proposed amendment simply perpetuates it and makes it lawful to do this. It does not prevent such a practice. It is within the power of the Secretary of the Navy now to cease the operation of such a practice.

Mr. JONES. I wish to ask the Senator from New York another question, simply for information.

Mr. BRYAN. I will tell the Senator that the Secretary of the Navy appeared before the committee and stated that under the ruling of the comptroller he was unable to charge to the yard maintenance what actually was spent for that purpose, but he was forced under that ruling to charge expenditures upon yard maintenance to the battleships. It was to get away from that ruling that he asked that this amendment be made.

Mr. JONES. This amendment does not permit the Secretary to take a fund appropriated for some particular purpose and use it for maintenance purposes?

Mr. O'GORMAN. It does not under the language used.

Mr. SWANSON. I will explain it.

Mr. JONES. Is there any law now under which he is authorized to use for the purpose money appropriated for some purpose other than maintenance?

Mr. O'GORMAN. Not that I know.

Mr. JONES. It is the purpose of the amendment, I understand, to provide that a fund used for maintenance shall be charged to maintenance.

Mr. O'GORMAN. That is correct; and that the fund used for construction shall be charged only to construction.

Mr. SWANSON. If the Senator will permit me, here is $7,800,000 appropriated for battleships.

Mr. NELSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Virginia yield to the Senator from Minnesota?

Mr. SWANSON. I do.

Mr. NELSON. The vice of this amendment is that it is more than a matter of bookkeeping. It practically authorizes the Secretary of the Navy to take out of any appropriation made in the bill and apply it to the maintenance of yards and then make the bookkeeping accordingly. It is throwing the door wide open and giving the Secretary of the Navy power to divert any appropriation, for whatever purpose made, to the maintenance of yards. The amendment goes too far. If you want to limit it to bookkeeping simply, change your amendment into a proper form.

Mr. O'GORMAN. Is it possible that the Senator from Minnesota is directing his remarks to the Senate committee amendment as it appears in the printed bill, or is he keeping in mind the amendment I have offered?

Mr. NELSON. It is the amendment which has just been offered by the Senator from New York.

Mr. O'GORMAN. I will ask the Secretary to read that amendment again, and we will see if it is subject to that construction.

The VICE PRESIDENT. The amendment will be again read.

The Secretary read as follows:

Provided further, That all expenditures appropriated for in this bill, under whatever designation appropriated, which are actually expended for yard maintenance shall be charged to yard maintenance.

Mr. NELSON. That is, if it is expended for that purpose it shall be charged to it, but it gives the power to take money out of any appropriation and use it for that purpose. That is the vice of the amendment.

Mr. O'GORMAN. I would not suppose that this language would confer that authority upon the Secretary of the Navy if it is not given to him elsewhere.

Mr. WARREN. There is not any question about it.

Mr. SWANSON. I will explain this particular appropriation. Here is an appropriation made in the bill of $7,800,000 for battleships. The only way by which to draw the pay for that is to draw against that appropriation. If you draw for the maintenance of yards, the comptroller will not honor the warrant. So this will enable the Secretary of the Navy, as the Senator from Minnesota very properly says, to expend a part of the $7,800,000 for maintaining a yard; and if he actually spent it for maintaining the yard, then the warrant will be honored by the comptroller and it will be paid.

The VICE PRESIDENT. Is that the construction?

Mr. SWANSON. That is the construction to be placed upon it.

The VICE PRESIDENT. On this amendment?

Mr. SWANSON. On the amendment. It says, "Any funds that are actually expended for maintenance"; that is, anywhere in the bill. You can not draw it if appropriated for a battleship or appropriated for some other purpose. If he actually spends it in maintaining a yard, then it shall be charged accordingly, and that will be honored. That is the construction I place on it.

The VICE PRESIDENT. The Chair, then, will be compelled to reverse his ruling and sustain the point of order, if that is what the amendment means.

Mr. SWANSON. That is what it means.

Mr. O'GORMAN. Mr. President——

Mr. WARREN. There is not any kind of question about it. The comptroller knows that it means that and nothing else, and it can not mean anything else.

Now, I do not wish to be understood as cramping the Navy or the naval appropriation bill, or embarrassing the Naval Committee; I want to work with them; but for this kind of a practice to creep into our appropriation bill means absolute chaos. It means to leave in the department the entire control. The Secretary can spend $100,000 or $5,000 or $500,000, and charge it up to docks and yards, and we could find out sometime afterwards, perhaps, how much it cost us for docks and yards, but know little of costs or what might be going on meantime. If the Secretary of the Navy has estimated wrongly, or if there is something that has come in since from the comptroller that requires legislation or regulation, and the committee feels that the Secretary is embarrassed, he can send another and later estimate covering the ground, and the committee can put it in proper form by joint resolution or otherwise.

I might say that when we make the appropriation for battleships, and I wish the attention of the Senator from Virginia for a moment, when stating that so many millions shall be appropriated for battleships, we might provide that not exceeding a certain amount or percentage should be used from each such appropriation for yards and docks. But we can not leave things at loose ends all through the bill, so that the entire appropriation can be used as the department may see fit.

Mr. NELSON. Will the Senator from New York yield to me for a moment?

Mr. O'GORMAN. I will.

Mr. NELSON. I wish to make one suggestion. I think a very brief amendment will accomplish what the Senator intends to accomplish. Let it read:

Provided further, That whatever sums are lawful and properly expended by the Secretary of the Navy for yards and docks shall be charged as such.

That covers it.

Mr. O'GORMAN. I will substitute for the word "actually" the word "lawfully," so that it will read:

Provided further, That all expenditures appropriated in this bill, under whatever designation appropriated, which are lawfully expended for yard maintenance shall be charged to yard maintenance.

Is that satisfactory?

Mr. WARREN. That does not cover the point.

Mr. O'GORMAN. Why not?

Mr. WARREN. It does not cover the point because our appropriations are separated under different heads.

Mr. TILLMAN. Will the Senator from Wyoming prepare an amendment that he thinks will cover the point?

Mr. WARREN. I am not a member of the committee. I am not working against you. I am not against the proper appropriation being given.

Mr. TILLMAN. I am just after honest bookkeeping; and the Secretary of the Navy states that under the ruling of the comptroller he can not do it.

Mr. MARTIN of Virginia. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Virginia?

Mr. O'GORMAN. Yes.

Mr. MARTIN of Virginia. Possibly I am mistaken, but this whole matter is a most amusing one to me. The Secretary of the Navy can ascertain the cost of a battleship. He need not limit himself to book items as to where the matters are charged. He can keep his books according to law. If an appropriation is made for one purpose, it ought to be used for that purpose. If it is not used for that purpose, he is violating the law. So far as ascertaining the cost of a battleship is

concerned, the Secretary can take the overhead charges, no matter what is appropriated for that purpose, and proportion those overhead charges to different items of work done in the yards, just as the private yards do. Those yards have repair work and they have ships for individuals and ships for the Government. They have dozens of items, and the work is going on, and they divide and apportion the overhead charges and all the different charges among the different items of work so as to ascertain the actual cost of each one.

The Secretary of the Navy is at perfect liberty, without any of this legislation whatever, to make such a statement as will show the actual and truthful cost of a battleship built in a Government yard. We do not need to change the bookkeeping account and provide that the books shall be properly kept. You need not provide for a juggling of the accounts in order to ascertain the cost of a battleship. You may keep the account according to the act of Congress making the appropriation, but when the Secretary comes to report to Congress or to make a memorandum for his own guidance in the department to determine the cost of a battleship or the cost of repairs on them or any other cost, he can apportion all the expenditures as in his judgment and the judgment of the experts in the department will be just and right and consistent with the facts.

There is no trouble whatever about it that I can see. It is incomprehensible to me that the Secretary of the Navy should come here complaining that he can not ascertain the cost of a battleship unless Congress legislates in respect to how he shall keep his accounts. Let him keep his accounts according to the truth and facts and in accordance with law, and when he comes to determine the cost of a battleship he can apportion the expenditures among the different pieces of work done in that yard in order to ascertain the cost of each.

I do not believe that there is the slightest difficulty in ascertaining truthfully the cost of a battleship without all this legislation here, and it is mischievous legislation, in my judgment, when it comes to a provision of law that Congress can appropriate money according to the estimates of the department for a certain purpose and the Secretary may use it for some other purpose. That is general legislation on this bill, and, in my judgment, it ought not to be allowed.

Mr. O'GORMAN. Mr. President, it would seem at first blush as though the matter of keeping accounts might be attended to by the Secretary of the Navy without the aid of legislation; but, as has been said by the Senator from Florida [Mr. BRYAN], owing to a ruling made by the Comptroller of the Treasury, the Secretary of the Navy, in order to accomplish the reform that he has in mind, needs the aid of this legislation.

I have substituted for the word "actually" the word "lawfully" in this amendment, and as amended I can not see any force in any criticism leveled at it, because, in substance, it merely provides that all moneys lawfully expended for yard maintenance shall be charged to yard maintenance. As modified I submit the amendment for the consideration of Senators.

Mr. MARTIN of Virginia. I make the same point of order. I do not see any difference myself.

Mr. WEST. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Georgia?

Mr. O'GORMAN. I do.

Mr. WEST. If my idea about the matter is correct, in getting at the cost of a ship, in order to illustrate that with a simple example, there is $30,000,0000 worth of work done in a yard and battleships cost $10,000,000. Then the battleships ought to be charged up with one-third of the $30,000,000 worth of work that is being done in that yard. That would be correct bookkeeping.

Mr. CLAPP. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the junior Senator from Minnesota?

Mr. O'GORMAN. I do.

Mr. CLAPP. It seems to me the controversy has arisen from a misunderstanding of the purpose. There is no question that the senior Senator from Virginia [Mr. MARTIN] is correct in his position. The Secretary of the Navy for his own information, or to secure the basis of advice to Congress as to the desirability of building a battleship in a navy yard, can make such a statement as in his judgment the facts warrant. He can make such a distribution of the cost as he thinks the facts warrant. If that was all that was desired, no amendment would be necessary, because he can do that without any authority whatever from Congress.

But I understand that it goes further than that, and what the Secretary wants is a limited authority for the actual distribution of the funds in the building and repair of battleships. If that is desired, of course some additional authority is necessary.

Mr. MARTIN of Virginia. It is general legislation.

The VICE PRESIDENT. It is probably not appropriate for the Chair to inquire what language means, but he has listened for about two months to a discussion of the real meaning of language, and is not philologist enough to determine what it does mean. There seems to have been a statement that the real purpose of this amendment is to enable the Secretary of the Navy to make expenditures from any sum appropriated here, and, if it is lawfully made for yard maintenance, that he shall charge it to yard maintenance, regardless of whether the sum total thereof shall exceed the sum appropriated by Congress for yard maintenance or not.

Mr. O'GORMAN. Mr. President, if it should exceed the amount appropriated, would it be a lawful expenditure by the Secretary of the Navy?

The VICE PRESIDENT. The Chair is coming to that, because the word "lawfully" simply means that from the fund money may be spent for yard maintenance.

Mr. O'GORMAN. However, the word "lawfully" in that connection places a restraint upon the expenditures of the Navy Department. They must be lawful expenditures.

Mr. WARREN. But you make it lawful by saying that he can take it from any fund.

The VICE PRESIDENT. Under any designation whatever, the Chair's original ruling assumed that the sole purpose was to keep the amount of yard maintenance up to the amount of the appropriation for yard maintenance. Now, it seems to be the purpose to permit the Secretary of the Navy to expend any sum of money he pleases for yard maintenance out of any particular fund herein provided and to charge it up to yard maintenance. The Chair sustains the point of order.

Mr. TILLMAN. Mr. President, before this matter passes from the attention of the Senate, I want to say that the Secretary of the Navy when he entered upon his duties found a system of bookkeeping which he was told had been in long use there under the system in vogue there. He can not find out exactly what a battleship does cost or anything else. Under it battleships are charged with the cost of maintaining the yard and other expenditures which he does not think are just and reasonable. The yards will have to be maintained anyhow, whether the battleships are built in them or not, and it can readily be seen that by such bookkeeping the Government yard is made to appear in a very bad light as compared with private yards in building ships or making repairs or anything else. The committee desired to clarify the bookkeeping in accordance with the Secretary's wishes, and proposed the amendment which went out on the point of order Friday. Our efforts this evening to straighten matters out with that object in view have all failed. I have no fault to find with the rulings of the Chair, for I think he has been right. I have advised the Secretary of the Navy to revise his regulations and give orders for such a system of bookkeeping as he wishes, which will accomplish the purposes he has in view, and if the Comptroller of the Treasury turns him down, to come to Congress and we will try to give him relief.

Mr. THORNTON. I now send up another committee amendment and ask to have it read.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 22, after line 2, insert the following proviso:

Provided, That the Secretary of the Navy is authorized to make such readjustments as may be necessary to equalize the pay of the clerical, drafting, inspection, and messenger force carried on the rolls of the navy yards and stations with the salaries paid employees of the other Government departments having like duties.

Mr. REED. Mr. President, a parliamentary inquiry. Do I understand that the amendment offered by the Senator from New York has been ruled out of order?

The VICE PRESIDENT. The Chair has ruled it out on the ground that it is general legislation.

Mr. REED. Has any business intervened?

The VICE PRESIDENT. An amendment has been presented just now, but the Chair has not the slightest objection to an appeal being taken from the decision of the Chair, and will grant that right.

Mr. REED. Mr. President, with all respect in the world for the opinion of the Chair, I appeal from the decision. I think, for once, the Chair is mistaken.

Mr. SWANSON. I make the point of order that business has intervened.

The VICE PRESIDENT. But the Chair never proposes to take advantage of that. The Chair will recognize the right of the Senator from Missouri to appeal.

Mr. SWANSON. The Chair might not; but business has intervened.

Mr. REED. I will say to the Senator from Virginia that I was in the Senate; I heard the colloquy; my attention was distracted for an instant by some one speaking to me, and I was utterly surprised when I knew that the point of order had been sustained. I do not think we ought to stand on a technicality of that sort when the Chair is entirely willing to let the Senate pass on the proposition.

Mr. MARTIN of Virginia. Mr. President, it is not a question, as I see it, as to what would be pleasing to the Chair; but it is a question of order on which we, of course, expect——

The VICE PRESIDENT. Of course, business has intervened; and if any Senator objects——

Mr. MARTIN of Virginia. I object. I consider the matter finally disposed of, and I raise the point of order.

Mr. REED. Mr. President——

The VICE PRESIDENT. It is therefore not the fault of the Chair that the Senator from Missouri can not now appeal from the ruling of the Chair.

Mr. JONES. I should like to have the amendment last submitted again stated.

Mr. REED. I beg the Senator's pardon. I heard the Chair rule this particular question in order. I was called from the Chamber a moment, and no appeal was entered to the ruling of the Chair that the amendment was in order. On my return I heard the colloquy. Of course, if the Senator from Virginia insists upon it, I presume the only way to bring the question up will be upon the floor of the Senate when we are sitting as a Senate, and I give notice now that I shall raise the question at that time. I desire to debate it.

Mr. JONES. I should like to have the amendment that was last sent to the desk again read.

The VICE PRESIDENT. The Secretary will read as requested.

The SECRETARY. On page 22, line 2, after the numerals "$425,000," it is proposed to insert the words:

Provided, That the Secretary of the Navy is authorized to make such readjustments as may be necessary to equalize the pay of the clerical, drafting, inspection, and messenger force carried on the rolls of the navy yards and stations, with the salaries paid employees of the other Government departments having like duties.

Mr. THORNTON. I will say to the Senator from Washington that it is simply in accordance with the rule of the Senate, and is the same provision that passed the Senate at the last session.

Mr. JONES. It seems to me, Mr. President, that is giving the Secretary of the Navy a power that Congress ought not to give him. If there should be a readjustment, it should be submitted to Congress and Congress should approve it. On the face of it, without further consideration, I am compelled to make the point of order against the amendment that it is general legislation.

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. THORNTON. On behalf of the committee, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 24, line 16, it is proposed to strike out "$10,000" and to insert in lieu thereof "$20,000," so that, if amended, it will read:

Navy Yard, Charleston, S. C.: To complete torpedo-boat berths (to cost not exceeding $300,000), $150,000; dredging, to continue, $20,000.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THORNTON. On behalf of the committee, I now offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 27, line 12, under the head of "Repairs and preservation of navy yards and stations," after the words "navy yards," it is proposed to insert "and Naval Observatory," so that if so amended it will read:

For repairs and preservation at navy yards and Naval Observatory, coaling depots, coaling plants, and stations, $1,100,000.

The amendment was agreed to.

Mr. THORNTON. I now offer the committee amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 28, at the end of line 22, after "$142,000," it is proposed to insert the following:

Provided, That the expenditure of $40,000 is hereby authorized from the naval hospital fund for such temporary structures and equipment of the naval hospitals at Mare Island and Puget Sound as may be necessary to make especial preparation for the sick of the Navy and visiting fleets at the time of the Panama-Pacific International Exposition and to relieve the present crowded condition of those institutions.

The amendment was agreed to.

Mr. THORNTON. I now offer the committee amendment, which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Louisiana will be stated.

The SECRETARY. On page 31, at the end of line 6, after the words "fiscal year," it is proposed to insert:

Provided further, That hereafter no officer or enlisted man in active service who shall be absent from duty on account of disease resulting from his own intemperate use of drugs or alcoholic liquors or other misconduct shall receive pay for the period of such absence, the time so absent and the cause thereof to be ascertained under such procedure and regulations as may be prescribed by the Secretary of the Navy: *And provided further*, That an enlistment shall not be regarded as complete until the enlisted man shall have made good any time in excess of one day lost by unauthorized absences, or on account of disease resulting from his own intemperate use of drugs or alcoholic liquors or other misconduct, or while in confinement awaiting trial or disposition of his case if the trial results in conviction, or while in confinement under sentence.

Mr. LODGE. Mr. President, I thought I was present at all meetings of the committee, but I never heard that amendment read. It is all new to me.

Mr. HUGHES. Unless the Senator from Massachusetts intends to do so, I desire to make the point of order against the amendment.

Mr. THORNTON. This amendment was adopted at a meeting held on May 14.

Mr. HUGHES. Certainly it is pretty general legislation.

The VICE PRESIDENT. The Chair sustains the point of order.

Mr. LODGE. I repeat, I thought I was at every meeting of the committee, though I may not have been. I was at every called meeting.

Mr. THORNTON. I can remember that on at least one occasion—I will not say that it was on the occasion when this amendment was adopted—the Senator from Massachusetts asked to be excused on account of having to attend another committee meeting after he had been at the meeting of the committee for a short while.

Mr. LODGE. I did not leave the committee room on that occasion, and I never heard the amendment before it was read at the desk. However, the point of order having been made and sustained, the amendment is gone.

Mr. WARREN. Mr. President, I do not desire to delay the Senator in charge of the bill, but I wish to ask a question. In the text of the amendment to which the amendment just ruled out of order was an amendment I notice there is a provision for chaplains, a large additional number of whom are probably necessary. I notice that a certain percentage—10 per cent, I think—are to have the rank of captain in the Navy, which is equal to the rank of colonel in the Army.

Mr. THORNTON. Is the Senator now alluding to the provision as to chaplains?

Mr. WARREN. Yes.

Mr. THORNTON. We are not on that now.

Mr. WARREN. I am asking the question because we are right at that point now. A certain number of chaplains are to have the relative rank of colonel in the Army, a certain number the rank of lieutenant colonel, a certain number the rank of major, and so forth. Of course in the Army, where a chaplain has charge of many more troops than a chaplain in the Navy, so far as their spiritual well-being is concerned, they have the rank of captain, with the exception that a few chaplains, after very long service, have the rank of major. I should like some little explanation of this provision, as I was absent on business of the Senate the day this amendment was acted on.

Mr. THORNTON. Will the Senator please tell me what he wishes explained? I do not know that I can explain it, but I will do the best I can.

Mr. WARREN. On page 32, just following the place where the last amendment was offered, it is provided:

Hereafter the total number of chaplains and acting chaplains in the Navy shall be 1 to each 1,250 of the total personnel of the Navy and Marine Corps, as fixed by law, including midshipmen, apprentice seamen, and naval prisoners—

I believe that will increase the number from about 24, the present number, to about 49 or 50. Then follows this provision:

And of the total number of chaplains and acting chaplains herein authorized 10 per cent thereof shall have the rank of captain in the Navy, 20 per cent the rank of commander, 20 per cent the rank of lieutenant commander, and the remainder to have the rank of lieutenants and lieutenants (junior grade).

I presume this amendment was drawn by some one interested in an association of clergymen; and it is possible that the word "captain" may mean in their estimation the same thing in the Navy that it does in the Army. In the Navy, however, the highest officer on the biggest battleship afloat, unless he is in command of the fleet, is a captain, and it seems to me that with all the authority and responsibility a captain has and all he had to do to attain the grade of captain, he ought not to have at his side with the same rank the parson who leads in religious devotion those who may be on the ship.

Mr. MARTINE of New Jersey. Mr. President, I will say that I was spoken to by a chaplain in the Navy with reference to this particular provision. The number allowed, I think we will all agree, is spread out quite thin enough, 1 chaplain to 1,250 men.

Mr. WARREN. I have no objection to the number of chaplains being increased.

Mr. MARTINE of New Jersey. The argument advanced for higher rank, as he put it to me, was that it would give them a more commanding position in the Navy, and that their influence would correspondingly be made more important and valuable in that way. Whether the higher rank carries with it any additional salary I am not prepared to say.

Mr. LODGE. It does not.

Mr. MARTINE of New Jersey. Mr. President, the Senator from Massachusetts tells me it does not.

Mr. WARREN. I differ from the Senator from Massachusetts as to that; but, allowing that he is right, I do not know of any reason why a chaplain, in order to have greater influence of a spiritual nature over his charge, should have equal rank with the captain of a battleship, the highest rank in the Navy, except that of admiral. This is the trouble, let me say——

Mr. HUGHES. Mr. President, what rank do the chaplains in the Army have?

Mr. WARREN. A chaplain in the Army has the rank of captain, with the exception that a small percentage, after, I think, 30 years' service, have the rank of major. This provision gives chaplains in the Navy the relative rank of colonel, lieutenant colonel, and major in the Army; that is, 10 per cent are to have the relative rank of colonel, 20 per cent are to have the relative rank of lieutenant colonel, and 20 per cent are to have the relative rank of major.

I do not see any reason for this, and I want to say what the result will probably be: In the Navy there has been a rule since long before any of us, perhaps, can remember that whatever advantages the Army had the Navy should also have. That being true—and in most matters it is made so by statute—the Army, on the other hand, naturally demands that it shall have what the Navy has. I see no necessity for having chaplains in the Navy with higher grade than chaplains in the Army. I do not see any reason why we should be called upon almost immediately to raise the rank of chaplains in the Army and Navy. It has been a very satisfactory service heretofore, if we may judge from the number of applicants we have for the position. I know that I have had, during my service in the Senate, hundreds of applications, and, although whatever it may be in the Navy, in the Army the position seems to be in an appointive way a perquisite of the President. I do not know of any President who has asked that the rank should be increased. I do know, however, that in the medical branch, in the dentistry branch, and in the veterinary branch the officers connected therewith are always trying to get higher rank; and it has been the duty of the Committee on Military Affairs, so far as the Army is concerned, and of the Committee on Naval Affairs for the Navy, to hold the ranks level with one another according to the degree of responsibility. I dislike to see a position of this kind taken that is going to result in raising the rank of chaplains of the Navy above the rank held by chaplains in the Army. If it means no increase in salary, certainly there is no reason for it; and if it does mean an increase in salary, there is certainly no reason why chaplains in the Navy should receive greater rank than those in the Army. I understand the amendment was agreed to while I was absent by detail of the Senate, but I sincerely hope that it may be corrected in conference.

Mr. LODGE. Mr. President, in 1842 there were 24 chaplains created for the Navy.

Mr. WARREN. Will the Senator allow me to say that I do not object to increasing the number at all?

Mr. LODGE. In 1842 there were 24 chaplains created for the Navy. There were then 1,554 officers and 12,000 enlisted men. Now the number has grown to 3,600 officers and 61,000 men. The chaplains are absolutely inadequate for the service of the American Navy to-day. All the churches of the country, without exception, have united in asking for this increase in the number of chaplains, and it has been given, I think, in a very moderate way. They are to be added at the rate of only seven a year, and their number is to be increased until a limit of one for every 1,250 men is reached. I do not think the Senate can possibly disagree to the need of more chaplains in the Navy. The work they do is extremely valuable from every point of view.

When the personnel act was passed the chaplains were excepted specifically by name from the longevity pay increase which that act carried. They do not receive as much pay as the doctors and paymasters of similar relative rank, and that remains unchanged by this amendment.

As to the question of rank, doctors in the Navy can have relative rank as high as admiral; so can paymasters; and under this provision 10 chaplains are to have relative rank as high as captain in the Navy. Chaplains with that rank will not be sent to sea; there will be no conflict of rank; they will only have relative rank; but it does give them a certain recognition for long years of service.

If we give relative rank to staff officers, which has been the settled policy of the Navy for many years, I do not see why chaplains should not have at the end of many years' service relative rank as high as captain, which only 10 can receive. We have not raised the pay of chaplains; we have not given them the pay which other officers of the staff with relative rank receive. I have here somewhere the exact differences, which are perhaps worth looking at. They get $550 less when they get to be lieutenant commanders than a doctor or paymaster of the same grade; and that we have not raised. We have not increased their pay. I think we ought to have increased their pay, but we have not done it in this amendment. All we have done is to give, by very slow degrees, the number of chaplains which the Navy ought to have.

It is impossible for 24 chaplains to do the work of the United States Navy to-day. That number was based on a force of 14,000 men, all told. Now there are 61,000 men, and officers in proportion, as I have said—65,000 in round numbers.

Mr. LA FOLLETTE. Not enough to conduct the burial service.

Mr. LODGE. Why, no. There are not enough to put on the battleships that go to sea. There are not enough to be in the hospitals and in the navy yards of this country. It is utterly impossible for them to do it.

I think this is one of the best amendments that has been put into any naval bill. It was put in by the House committee and went out under their rule on a point of order. The point of order will not lie against the amendment here, because it is not general legislation. We have increased the Marine Corps here. We have increased other divisions here. It is a change of existing law, which is the House rule, but that is not our rule. Our rule is general legislation. This is simply increasing the numbers of a particular branch of the service, which has been done here repeatedly.

I think it would be a very great misfortune if this amendment should be lost. It was really agreed to by the House. It went out there only on a point of order. If it goes into conference it will be accepted. We have taken the House provision in our amendment. When you think of the relative rank that is given to doctors, paymasters, and civil engineers, I do not see any reason for refusing it to the chaplains.

Mr. WARREN obtained the floor.

Mr. THORNTON. Mr. President, will the Senator from Wyoming permit me now to answer the question he asked me some time ago?

Mr. WARREN. I shall occupy the floor only for a moment. There is no objection that I know of as to the number of chaplains. I think it is a very just and very worthy measure; but a comparison of the chaplains as to their rank with the officers of the Medical Service and the Engineers fails when you consider that in the medical line, for instance, the medical officers that arrive at the rank which is proposed here do so not only at the end of long and arduous service, but when they have charge of great divisions, when they have hundreds of doctors under them, when they have a great amount of responsibility and property in the way of stores of medicines, and so forth, in their charge. It is the same way with engineers and other officers. In the service of the chaplains, however, there is no routine of office now, and I know of none that can be imposed, where one officer has charge of great properties and the direction of a great number of men under him.

These chaplains, as I understand, are sent on different warships and to the different navy yards, and it seems to me worse to give them the rank and not the pay than it would to give them the pay and less rank. I see no good reason why the highest rank in the Navy should be given to some chaplain

who, as the Senator says, probably will not go to sea. I will admit that it makes a nice, soft place for some man who may have done good service, but I believe he would prefer to have less rank and more pay, to which I certainly should not object.

Mr. MARTINE of New Jersey. Mr. President, there are many of them who do go to sea. I have in my mind now one who has just returned from Vera Cruz. I am simply answering the particular point the Senator made, that they do not go to sea. I know he is mistaken in that particular statement.

Mr. SMITH of Michigan. The Senator knows that they desire to go.

Mr. MARTINE of New Jersey. I know that they desire to go and do go.

Mr. THORNTON. Mr. President, the Senator from Wyoming asked me some time ago if I could give the reasons that actuated the committee in creating the grade of captain for the chaplains. I have not had the opportunity to reply until now. I wish to say to him frankly that I do not know, because I was not present at the time the amendment was carried, being detained by request of the Secretary of Commerce on what was considered an important matter of business. Therefore I do not know of my own knowledge; but other members of the committee who were present will no doubt be able to explain the matter to the Senator's satisfaction; at least, I hope so.

Mr. SWANSON. Mr. President, I understand the Navy now confers the rank of captain on certain chaplains. This does not increase the pro rata number of those that can be captains, as I understand. The chaplains can not get pay exceeding that of junior commander. That is the limit of their pay. They already have the rank of captain in the Army. A chaplain in the Navy can not be higher than a major, as I understand. We do not change the law permitting them to have the rank of captain.

There is great necessity for this increase. There are only 8 battleships that are able to have chaplains now. Of the 24 chaplains that we now have, only 8 could be provided for battleships.

Mr. WARREN. The Senator will understand that there is no objection to the increase of the number.

Mr. SWANSON. There has been no change in the rank given them. We do not change the law in that respect.

Mr. WARREN. Why do you insert it here, then?

Mr. SWANSON. We keep up the same pro rata—10 per cent of them.

Mr. WARREN. Why do you insert it here, if it is already the law?

Mr. SWANSON. The law is that a certain pro rata of them are captains now, as I understand.

Mr. WARREN. I have not seen that law.

Mr. SWANSON. We keep up the same proportionate number. They are entitled to the rank but not to the pay of captain, as I understand, under the present law.

Mr. LODGE. They are not entitled to the pay of captain; but they have now the relative rank of major, I know, and I think some of them have the relative rank of captain. I do not think we give them any more rank or pay than they now have.

Mr. SWANSON. None of them.

Mr. WARREN. I should be glad to have the Senator produce the law, for I may be wrong about it.

Mr. WEEKS. Mr. President, I have here a list of chaplains in the Navy. There are five who have the relative rank of captain.

Mr. LODGE. I felt sure of that.

Mr. WEEKS. There are 7 who have the relative rank of commander. There are 5 who have the relative rank of lieutenant commander. There is 1 who has the relative rank of lieutenant. The remainder of the 24 have the relative rank of lieutenant, junior grade.

Mr. LODGE. Has the Senator the statute there?

Mr. WEEKS. I have not the statute. I have the Navy Register.

Mr. LODGE. The Navy Register certainly would not be contrary to the statute. I know they have the relative rank of major.

Mr. WEEKS. Under the provision which is offered here, the proportional number of chaplains of the relative rank of captain would be less than in the present establishment.

Mr. LODGE. Yes.

Mr. WEEKS. And the proportional number having the relative rank of commander would be less than in the present establishment, so that in reality the average rank of chaplains in the Navy will be lower than it is at present.

Mr. SWANSON. I think the Senator will find the law to be the act of June 29, 1906, found in the Navy Yearbook, at page 515, in which the pay and the increase in grades were fixed. This provision simply carries out, with the increase, the existing law with the present 24 chaplains, as I understand.

Mr. WARREN. Then, as I understand, this is really a limit on the present law? Is that the ground the Senator takes?

Mr. SWANSON. It is not a limit. It does not change the existing law as to the number.

Mr. WARREN. But as to the percentage?

Mr. SWANSON. As to the percentage; that is all.

Mr. WARREN. Of course the Senator will understand that I made no point of order. In fact, I could not do so, because the amendment was agreed to the other day. I did want this explanation, however, and I wanted it in the RECORD, because of what I have stated—the comity between the two branches of our fighting forces, each one jealous of its own. I wanted to meet the statement as to why that provision has been inserted here, what it means, and what it amounts to.

Mr. JONES. Mr. President, I should like to ask the Senator from Virginia [Mr. SWANSON] or the Senator in charge of the bill [Mr. THORNTON] with reference to this provision, as it has been discussed.

I received a telegram to-day very strongly objecting, as I understand, to this provision of the bill. I understand, also, that it was adopted a day or two ago in Committee of the Whole. I wish to ask what change, if any, from the existing law this provision makes in the method of selecting the chaplains?

Mr. LODGE. It makes no difference.

Mr. JONES. The plan of selecting them will be just the same as we have been following and are following now?

Mr. LODGE. They will be appointed in the same way.

Mr. JONES. By the same kind of board and with the same examinations as now?

Mr. LODGE. Precisely. That is all provided for in the amendment—their examinations and everything. The grade of acting chaplain is created.

Mr. JONES. I know that is provided in the amendment; but I wish to know whether the provision in the amendment is the same as we have been following in the past in selecting chaplains?

Mr. LODGE. Except that now chaplains appointed to the Navy from civil life, as they all are appointed now, are not appointed acting chaplains. They are given at once the grade of junior lieutenant.

Mr. JONES. What is the difference between the method provided in this amendment for the selection of chaplains in the Navy and the method pursued heretofore?

Mr. LODGE. None.

Mr. JONES. None at all?

Mr. LODGE. None at all, except the interposition of this grade of acting chaplain, which lasts three years after they first enter. Then they get their regular commission and their rank.

Mr. JONES. So that the only substantial part of this amendment is that it increases the number of chaplains?

Mr. LODGE. That is all.

Mr. JONES. I must confess that I can not see any especial objection to that, or any basis for the telegram I have received.

Mr. THORNTON. I now send up another committee amendment, which I ask to have read.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 31, at the end of line 6, it is proposed to insert:

That the act approved August 22, 1912, making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes, in so far as it relates to the payment of six months' pay to the widow of an officer or enlisted man, etc., be amended to read as follows:

"That hereafter, immediately upon official notification of the death, from wounds or disease not the result of his own misconduct, of any officer or enlisted man on the active list of the Navy and Marine Corps, the Paymaster General of the Navy shall cause to be paid to the widow, and, if no widow, to the children, and, if there be no children, to any other dependent relative of such officer or enlisted man previously designated by him, an amount equal to six months' pay at the rate received by such officer or enlisted man at the date of his death, exclusive of any expenses of interment which the Government defrays under existing law."

Mr. WARREN. Mr. President, is it intended by that amendment to have six months' pay added to the funeral expenses?

Mr. THORNTON. Six months' pay exclusive of interment expenses; six months' pay to the widow or children of anyone who dies in the service, unless it was on account of his own misconduct.

Mr. WARREN. Yes; I understand. I wish to say that that is very much like what is already provided in the Army and

Navy, except that in the Army an amount paid by the Government for burial expenses is deducted, and I think this should be the same, so that they will rest alike. In one case the family pays the expenses, and in another the death occurs so far away that the expenses are paid by the Government. I think it should be inclusive of that, instead of exclusive.

Mr. THORNTON. I will say to the Senator that I was not aware exactly what the rule was in the case of enlisted men in the Army. All I know is that this was the recommendation sent down by the Navy Department, requesting that it be offered as an amendment, and I was instructed by the committee to offer it as a committee amendment.

Mr. WARREN. Would the Senator mind letting it lie over while we proceed to other amendments, until I can find the provision of existing law?

Mr. THORNTON. I will ask that the amendment may be temporarily laid aside.

I wish to say that as the Senator from Massachusetts [Mr. LODGE] is compelled to leave the Chamber shortly, I will request him to now offer the amendment he was requested by the committee to offer.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. It is proposed to add, at the end of the bill, the following:

The President may, in his discretion, direct the sale, in such manner, at such price, and upon such terms as he shall deem proper, of the battleships *Idaho* and *Mississippi*. All moneys received from the sale of said vessels shall, after payment therefrom of the expenses of such sale, be deposited by the Secretary of the Navy in the Treasury, and shall, until expended, be available for the construction of such other vessel or vessels, at least equal for purposes of offense and defense to the most modern vessels of the same class now projected here or abroad, as the President may in his discretion authorize: *Provided*, That no vessel shall be sold, exchanged, or conveyed under this authorization unless such sale, exchange, or conveyance, or the agreement therefor, shall have been made prior to July 1, 1915: *Provided further*, That any vessel or vessels constructed from the money received from the sale of the *Mississippi* and *Idaho* shall not be included in the annual appropriations for the increase of the Navy.

Mr. THOMAS. Mr. President, I should like to inquire from the chairman or some member of the committee when these vessels were constructed.

Mr. LODGE. I was about to state the facts in that regard. The construction of these vessels was authorized in 1905, and they were completed in 1908. They are first-rate vessels of their type.

Mr. THOMAS. Why should they be sold?

Mr. LODGE. The Senator's question anticipates what I was about to say.

Mr. THOMAS. I beg the Senator's pardon for interrupting him unnecessarily.

Mr. LODGE. The President and the Secretary of the Navy recommend this sale because an offer has been made, or they understand an offer is to be made, for their purchase by a European Government. They think it will be of advantage to sell these two vessels, if they can be sold for cost or more, and build one vessel in their place.

These two vessels are of 13,000 tons each. Those which we are at present building are of 30,000 tons each. The Navy Department thinks it would be a very good arrangement for us to exchange these two vessels for one vessel of the larger type. They expect to realize enough from them to build one vessel like battleship *No. 39* now laid down in the New York yard. They will not sell otherwise.

If the vessels are not sold, there is no loss to the Navy of the United States. They are fine vessels. The only objection is that they are of 13,000 tons apiece, while the most recent types constructed to-day are more than twice as large.

Mr. THOMAS. I quite agree that the opportunity for selling these ships will probably be taken advantage of, but the fact is that these two vessels of 13,000 tons each were completed in 1908, which was probably the extreme dimension of ships at the time their keels were laid, and now they are practically of no value to our Navy.

Mr. LODGE. If the Senator will allow me, that is not correct. They are valuable ships. Capt. Winterhalter, who appeared before the committee with the Secretary of the Navy in regard to it, told me that they were first-rate vessels and that there was no objection at all to our keeping them.

Mr. THOMAS. They are not valuable.

Mr. LODGE. They are very valuable.

Mr. THOMAS. They are not valuable as against vessels of 30,000 tons.

Mr. LODGE. No; one of them is not.

Mr. THOMAS. Neither of them, I presume.

Mr. LODGE. That is not so certain.

Mr. THOMAS. But by 1920 we will be selling our 30,000-ton vessels, for the reason that in this race for naval construction they will be building them at a cost of forty or fifty million dollars each and in all probability having a tonnage of 50,000 or 60,000. It is a good illustration of the progress which the nations are making in their competition in boat building that will inevitably lead all the nations of the earth to bankruptcy.

Mr. LANE. I should like to suggest to the Senator from Colorado that in 1920 we will be buying the ships back, for the reason that they will be smaller targets for the bombs thrown from airships, and smaller ships will be valuable.

Mr. THOMAS. We will not be buying them back unless the Armor Trust and the War Trust in the meantime disappear, and I see no signs of that. We will keep building them as long as those trusts can keep the Nation apprehensive as to the hostile designs of its neighbors.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THORNTON. I send to the desk an amendment which I ask to have read.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 47, after line 17, insert:

Hereafter in addition to the appointments of midshipmen to the United States Naval Academy as now prescribed by law, the Secretary of the Navy is allowed 15 appointments annually from the enlisted men of the Navy who are citizens of the United States and not more than 20 years of age on the date of entrance to the Naval Academy and who shall have served not less than one year as enlisted men on the date of entrance: *Provided*, That such appointments shall be made in the order of merit from candidates who have passed such physical and such competitive mental examinations as the Secretary of the Navy shall prescribe; and candidates so selected shall then be required to pass the physical and mental examinations now required by law for entrance to the Naval Academy.

Mr. THORNTON. Mr. President, I desire to say that this is the same amendment, except a change as to the number to be appointed and the time of service, that was ruled out on a point of order last Wednesday raised by the Senator from Massachusetts [Mr. WEEKS]. The Senator from Massachusetts, however, is perfectly willing that the amendment in its present shape shall be adopted.

Mr. LODGE. A point of order was made by my colleague, the junior Senator. Is the age changed?

Mr. SMOOT. Yes; from 22 to 20.

Mr. THORNTON. I will say to the Senator that it was submitted to his colleague.

Mr. LODGE. I did not hear that part of the Senator's statement.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THORNTON. I now send up the following amendment.

The VICE PRESIDENT. The amendment will be read.

The SECRETARY. On page 37, after line 17, after the numerals "$9,788,000," insert the following proviso:

"*Provided*, That the Secretary of the Navy be authorized at his discretion to issue free of cost the national flag, United States national ensign No. 7, used for draping the coffin of any officer or enlisted man of the Navy or Marine Corps whose death occurs while in the service of the United States Navy or Marine Corps, upon request, to the relatives of the deceased officer or enlisted man or, upon request, to a school, patriotic order, or society to which the deceased officer or man belonged.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The SECRETARY. Also add the word "*further*," after "*Provided*," in the bill at that point.

The amendment was agreed to.

Mr. THORNTON. I send up the following amendment.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. On page 59, line 2, strike out the word "steam" before the word "machinery," so that, if amended, it will read:

Construction and machinery: On account of hulls and outfits of vessels and machinery, etc.

The amendment was agreed to.

Mr. THORNTON. I now send up the following amendment.

The SECRETARY. On page 59, after line 13, insert as a separate paragraph:

A committee is hereby authorized to be appointed, to consist of one member of the Committee on Naval Affairs of the Senate and one member of the Committee on Naval Affairs of the House of Representatives, to be selected by the chairmen of the respective committees, and one naval officer, to be selected by the Secretary of the Navy, to investigate and report at the next regular session of Congress upon the selection of a suitable site for the erection of an armor plant to enable the United States to manufacture its own armor plate and special-treatment steel capable of standing all ballistic and other necessary tests required for use in vessels of the Navy at the lowest possible cost to the Government, taking into consideration all of the elements necessary for the economical and successful operation of such a plant, such as the availability of labor, material, and fuel, and transportation facilities to and from said plant. Said report shall contain the cost of a site sufficient

to accommodate a plant having an annual output capacity of 20,000 tons and a site for an output of 10,000 tons, and also an itemized statement of the cost of the necessary buildings, machinery, and accessories for each, and the annual cost and maintenance of each, and the estimated cost of the finished product.

Said committee is authorized to sit during the recess of Congress, to send for persons and papers, and to administer oaths.

The sum of $5,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of said committee and to be immediately available.

Mr. GALLINGER. Mr. President, a few days ago, when a somewhat similar amendment was offered, the junior Senator from Pennsylvania [Mr. OLIVER] made a point of order against it. I will ask the Senator who has offered the amendment if that Senator had any information that this amendment would be offered?

Mr. THORNTON. The only information I have on the subject is that the department thought that, drawn in this way, it would cover the objections made by the Senator from Pennsylvania, and that in this shape it would not be subject to the point of order.

Mr. GALLINGER. Mr. President, I would make the point of no quorum, and I hope the Senator from Pennsylvania will come in.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Kenyon	Page	Sterling
Bristow	Kern	Perkins	Stone
Bryan	La Follette	Ransdell	Swanson
Catron	Lane	Saulsbury	Thomas
Chamberlain	Lee, Md.	Shafroth	Thornton
Clapp	Lewis	Sheppard	Tillman
Cummins	Martin, Va.	Simmons	Vardaman
Gallinger	Martine, N. J.	Smith, Ariz.	Warren
Gronna	Myers	Smith, Ga.	White
Hughes	Nelson	Smith, Md.	
James	Norris	Smith, Mich.	
Jones	Overman	Smoot	

Mr. MARTIN of Virginia. The senior Senator from West Virginia [Mr. CHILTON] is detained from the Senate on account of sickness in his family. He is paired with the Senator from New Mexico [Mr. FALL].

Mr. SMITH of Michigan. My colleague [Mr. TOWNSEND] is unavoidably absent from the Senate.

Mr. THORNTON. I announce the unavoidable absence of the senior Senator from Mississippi [Mr. WILLIAMS] and will state that he is paired with the senior Senator from Pennsylvania [Mr. PENROSE]. I ask that this announcement may stand for the remainder of the day.

The VICE PRESIDENT. Forty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of the absentees.

Mr. VARDAMAN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 17 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, June 2, 1914, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *June 1, 1914.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, infinite Spirit, for that law of our being which takes us at times away from the busy whirl and turmoil of life's activities and brings us to Thee in prayer, where forgetting the conventionalities of society, commercial values, party strife, and religious differences we may lift our hearts to Thee in love and gratitude for past favors, confessing our sins, imploring Thy mercy and Thy guidance in all the duties of life.

Open Thou the crystal fountain,
Whence the living waters flow;
Let the fiery cloudy pillar
Lead us all the journey through;
Strong Deliverer!
Be Thou still our strength and shield.

In His name. Amen.

The Journal of the proceedings of Friday, May 29, 1914, was read and approved.

ADDRESSES AT ARLINGTON.

Mr. COX. Mr. Speaker, I ask unanimous consent to insert in the RECORD speeches delivered by the honorable Speaker of this House, the President of the United States, and Senator SMOOT at Arlington Cemetery on Decoration Day, May 30.

The SPEAKER. The gentleman from Indiana asks unanimous consent to have printed in the RECORD speeches made by the President, Senator SMOOT, and the Speaker at Arlington. Is there objection?

Mr. MANN. I would suggest to the gentleman he have printed the introductory speeches, also, of the different speakers.

Mr. COX. I will put them in if I can get them. I think they are in the Post.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. GRIEST, until such time as his physician consents to a renewal of active duties.

To Mr. STEPHENS of California, for six days, on account of duties connected with the Board of Visitors, United States Naval Academy, Annapolis, Md.

MIGRATORY BIRD LAW.

Mr. BARTLETT. Mr. Speaker, I ask permission to extend my remarks by inserting in the RECORD a decision of Judge Trieber, of the United States District Court for the Eastern District of Arkansas, rendered on Saturday, upon the constitutionality of the migratory bird law.

Mr. COX. How does he hold?

Mr. BARTLETT. That it is unconstitutional.

The SPEAKER. The gentleman from Georgia asks unanimous consent to print a decision by Judge Trieber in reference to the migratory bird law.

Mr. BARTLETT. In which the law was held to be unconstitutional.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ORDER OF BUSINESS.

Mr. KINDEL. Mr. Speaker, I would like to call the attention of the House to the fact that the notice of the Lindsey meeting last week is incorrect as published in last Friday's RECORD, relating to the meeting held in the matter of the coal strike. Can that be corrected?

Mr. GARNER. The gentleman's statement corrects it.

The SPEAKER. All the gentleman can do is to make a statement in contradiction of it; the gentleman can not correct the text of the article. Neither the gentleman has the right, the House, nor the whole Congress.

Mr. KINDEL. Mr. Speaker, I would say that this meeting which was held was a Socialist meeting, and——

Mr. FOSTER. Mr. Speaker, I ask for the regular order.

The SPEAKER. The gentleman from Illinois demands the regular order, and the regular order is to go into committee.

COMMISSION ON NATIONAL AID TO VOCATIONAL EDUCATION.

Mr. HUGHES of Georgia. Mr. Speaker, I would ask the gentleman to withhold his demand for the regular order for a moment. The Commission on Vocational Education wish to make their report, and the time is limited.

Mr. FOSTER. I have no objection to that, but I do not think we ought to have this coal strike discussed at this time.

The SPEAKER. Does the gentleman withhold his objection?

Mr. FOSTER. I do, in order that the gentleman from Georgia may make his report.

Mr. HUGHES of Georgia. Mr. Speaker, the Commission on National Aid to Vocational Education was created by an act approved January 24, 1914, authorizing the President of the United States to appoint a commission of nine members to consider the subject of national aid to vocational education and report their findings and recommendations not later than June 1. This commission, Mr. Speaker and gentlemen of the House, was composed of four congressional members and five noncongressional members. This general committee has been in session for two months, almost every day. The subcommittee composed of noncongressional members were in session not only all day but frequently at night. Too much credit, Mr. Speaker, can not be given to the noncongressional subcommittee——

Mr. MANN. Does the gentleman intend to prefer a request?

Mr. HUGHES of Georgia. If the gentleman will wait a few minutes, I just wish to make these preliminary remarks.

Mr. MANN. I am not willing to wait unless I know what is coming.

Mr. HUGHES of Georgia. It will be all through in half a second.

Mr. MANN. It will be; that is true.

Mr. HUGHES of Georgia. Does the gentleman object. I hope he will not.

The SPEAKER. Has the gentleman from Georgia any request?

Mr. HUGHES of Georgia. I wanted to say this much: This committee is ready to make their report and submit it. They are not asking for an extension of time nor are they asking for an

increase of appropriation. We are ready to make and do make this report within the time specified, and, Mr. Speaker, it is most pleasing to the commission to state that we propose to turn into the Treasury of the United States several thousand dollars of the $15,000 of the appropriation. [Applause.] Now, Mr. Speaker and gentlemen of the House, I propose to submit on behalf of the commission the report and bill. I do not ask to have it read, because it is too voluminous.

The SPEAKER. The gentleman submits a report from the commission. That report goes through the basket.

Mr. MANN. I am not sure, but I suppose the report should be referred to a committee.

The SPEAKER. The report and bill will be referred to a regular committee.

Mr. MANN. I do not know what committee it goes to.

The SPEAKER. The Chair will refer it properly.

Mr. WEBB. Mr. Speaker, I ask for the regular order.

ANTITRUST LEGISLATION.

The SPEAKER. The regular order is that the House resolve itself automatically into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657 and other bills embraced within the special rule. In the absence of Mr. HULL, the gentleman from Tennessee, Mr. BYRNS, will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 15657 and other bills embraced within the special rule, with Mr. BYRNS of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes.

Mr. WEBB. Mr. Chairman, I wish to offer an amendment to section 7.

Mr. GARNER. Mr. Chairman, there is one amendment now pending, offered by the gentleman from Illinois [Mr. MADDEN] immediately before the committee rose on Friday last. Shall we not have to vote first on that amendment?

The CHAIRMAN. The chairman of the Committee on the Judiciary has an amendment in addition to that offered by the gentleman from Illinois.

Mr. MANN. Mr. Chairman, if we have to dispose of the first paragraph before we take up the second paragraph of that section, I suggest that the gentleman from North Carolina ask unanimous consent that the first paragraph of the section be taken up before the second paragraph, and that they be considered separately; that the two paragraphs be considered as entirely separate.

Mr. WEBB. My idea was, Mr. Chairman, to let all amendments to the section be disposed of, as has been the practice in the past.

Mr. MANN. It is immaterial to me. I thought perhaps the gentleman would like to take up the labor proposition first.

Mr. WEBB. Then, Mr. Chairman, I ask unanimous consent that the amendments to the first paragraph of section 7 be disposed of before we take up the second paragraph of that section.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that the first paragraph of section 7 be first considered. Is there objection?

Mr. MURDOCK. Mr. Chairman, reserving the right to object, there is one amendment pending. To which paragraph is that intended to apply?

Mr. WEBB. To the second paragraph.

Mr. MURDOCK. And the amendment which the gentleman from North Carolina offered is to the first paragraph?

Mr. WEBB. Yes; to the first paragraph of the section.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

On page 24, at the end of line 10, amend by striking out the period and inserting a semicolon and by adding the following: "Nor shall such organizations, orders, or associations, or members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

Mr. THOMAS. Mr. Chairman, I wish to offer an amendment to the amendment offered by the gentleman from North Carolina.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kentucky [Mr. THOMAS] to the amendment of the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

Strike out all of section 7 down to and including the word "thereof," in line 10, and insert the following: "The provisions of the antitrust laws shall not apply to agricultural, labor, consumers, fraternal, or horticultural organizations, orders, or associations."

Mr. WEBB. Mr. Chairman, I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WEBB. That is, to know whether the amendment just presented by the gentleman from Kentucky is in order. From its construction it seems to be an amendment to an amendment to an amendment. I make a point of order on it.

Mr. MANN. I make the point of order, Mr. Chairman, anyhow, just to preserve the record straight and conform to the rules of the House. As a matter of fact, Mr. Chairman, we have treated the existing committee bill, which is an amendment in itself, as though it were an original bill, and all through the discussion and consideration so far we have allowed amendments to amendments to the committee amendment, although I think that was a little irregular; but nobody has said anything about it, because it is usual when you bring in such a thing to treat a committee substitute as though it were an original bill.

Mr. MURDOCK. The committee substitute is the one which was reported under the rule.

The CHAIRMAN. That would be in keeping with the rule in Committee of the Whole, to permit an amendment to an amendment.

Mr. MANN. But this is not an amendment to the amendment offered by the gentleman.

The CHAIRMAN. The Chair thinks it should not be treated as an amendment. Does the gentleman from North Carolina insist on his point of order?

Mr. WEBB. I withdraw it. We are going to have a vote on it anyhow.

Mr. MACDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. MACDONALD] offers an amendment, which the Clerk will report.

Mr. NELSON. Mr. Chairman, as a member of the committee, I think I have the privilege of offering an amendment before the other gentleman.

The CHAIRMAN. The gentleman is correct. The Clerk will report the amendment offered by the gentleman from Wisconsin.

Mr. NELSON. I offer it as a substitute.

The Clerk read as follows:

Insert after the word "profit" and before the words "or to forbid," in line 8, page 24, the following: "Or of cooperative associations formed by farmers for the purpose of buying more cheaply and of marketing their products to better advantage," so as to make the first paragraph of this section read: "That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock, or conducted for profit; or of cooperative associations formed by farmers for the purpose of buying more cheaply and marketing their products to better advantage; or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof; nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

Mr. MANN. Mr. Chairman, I shall have to make a point of order that that is not a substitute, on the face of it. We shall get all confused and mixed up in this section unless we treat the amendments as separate amendments.

Mr. MURDOCK. Let us have them all offered as amendments.

Mr. MANN. The gentleman from Wisconsin will have the opportunity to offer the amendment that he desires to offer at the proper time, without question.

Mr. NELSON. I have no objection to taking them up in order.

The CHAIRMAN. The Chair will state that there is an amendment and substitute pending now.

Mr. GARNER. Mr. Chairman, my understanding was that the gentleman from North Carolina [Mr. WEBB] offered his amendment for the purpose of allowing all gentlemen to offer amendments thereto at this time for purposes of information and to have them considered as pending.

Mr. MANN. He can not do that. I made the point of order before that the amendment of the gentleman from Kentucky was not an amendment to the amendment of the gentleman from North Carolina. It plainly is not.

The CHAIRMAN. The Chair thinks the point of order raised by the gentleman is well taken.

Mr. FERRIS. Mr. Chairman, let me inquire of the chairman if the gentleman does not think the reading of so many amendments would tend to confuse rather than to help us?

I can not hold in my head five or six different amendments, all relating to different phases of the subject.

Mr. MURDOCK. They will be reported before we come to vote on them.

Mr. GARNER. The gentleman from Oklahoma realizes that we ought to get a limit of debate, if possible, on this paragraph. Now, the object of the chairman of the committee, as I understand it, is to have all amendments offered at this time for information, and as the different amendments are discussed, they will be reported from the desk, and the committee in that way will be able to understand the merits of each one of the amendments.

Mr. FERRIS. The trouble about that is that we do not have the amendments printed, and we will have to go to the desk to see what they are, and it will be confusing.

Mr. MANN. I shall have to make a point of order against the offering of these amendments in this way. Nobody will know where we are in a few minutes.

The CHAIRMAN. The point of order is sustained.

Mr. MANN. Mr. Chairman, a parliamentary inquiry. What is now pending?

The CHAIRMAN. The Chair will state to the gentleman that the amendment offered by the gentleman from North Carolina [Mr. WEBB] and the substitute offered by the gentleman from Kentucky [Mr. THOMAS] are pending.

Mr. MANN. What became of the point of order which I made on the amendment offered by the gentleman from Kentucky that it was not an amendment to the amendment?

The CHAIRMAN. The Chair understands the gentleman from Kentucky offers it as a substitute for the amendment offered by the gentleman from North Carolina.

Mr. MANN. Yes; but I make the point of order that it is not a substitute. It is offered to a different part of the section. They have no relation to each other.

Mr. THOMAS. It is offered to the first part of the section. It is either a substitute or a separate amendment to the first paragraph of the section.

Mr. MANN. That would be in order; but the amendment of the gentleman from North Carolina [Mr. WEBB] comes in at the end of the paragraph, and the amendment proposed by the gentleman from Kentucky comes in at the beginning of the paragraph. They might both be agreed to by the committee. One is not a substitute for the other in any sense.

Mr. GARNER. It makes no difference, just so you get a vote.

The CHAIRMAN. Does the gentleman from Kentucky [Mr. THOMAS] desire to be heard on the point of order?

Mr. THOMAS. I will say this much, may it please the Chair, that the amendment or the substitute, as the case may be, which I have offered, is to the first paragraph of section 7. I understand that the amendment offered by the gentleman from North Carolina [Mr. WEBB] is to the last part of this paragraph. That is what I understood the gentleman from Illinois to claim.

Mr. MANN. If the gentleman will pardon me, the amendment offered by the gentleman from North Carolina is to add something at the end of the paragraph.

Mr. THOMAS. Yes.

Mr. MANN. The amendment proposed by the gentleman from Kentucky is practically to change the language of the paragraph. Now, Mr. Chairman, if it is to be held as an amendment to the amendment, and if the amendment of the gentleman from Kentucky is agreed to, there will be no chance of getting a vote upon the amendment of the gentleman from North Carolina; and although the committee might want to agree to both amendments, it could not possibly do it, if it is held to be an amendment to the amendment, because it would not be in order, I take it, to offer this amendment over again after we had substituted something for it.

Mr. HENRY. I suggest to the gentleman from Kentucky that he offer his amendment later.

Mr. MANN. The amendment of the gentleman from Kentucky will be in order after the amendment of the gentleman from North Carolina is disposed of.

Mr. THOMAS. My amendment is certainly an amendment to the first part of the paragraph.

Mr. MANN. Oh, undoubtedly.

The CHAIRMAN. The Chair thinks that, strictly speaking, the amendment of the gentleman from North Carolina [Mr. WEBB] should be considered as an amendment to perfect the text of the bill. The amendment offered by the gentleman from Kentucky strikes out the paragraph and proposes to insert new matter. For that reason the Chair feels constrained to sustain the point of order. Of course, the gentleman from Kentucky will have an opportunity to offer his amendment later. The question is on the amendment offered by the gentleman from North Carolina.

Mr. THOMAS. When shall I have an opportunity of offering my amendment?

The CHAIRMAN. As soon as this amendment is disposed of and the gentleman is recognized by the Chair.

Mr. THOMAS. Suppose the amendment of the gentleman from North Carolina is adopted.

Mr. GARNER. Then the gentleman from Kentucky can offer his.

The CHAIRMAN. The Chair will state to the gentleman from Kentucky that his amendment will be in order as soon as the amendment of the gentleman from North Carolina is disposed of.

Mr. THOMAS. Does the Chair hold that I may offer it as an amendment or as a substitute?

Mr. GARNER. When the amendment of the gentleman from North Carolina is disposed of the gentleman from Kentucky can offer his proposition as an amendment.

Mr. WEBB. Mr. Chairman, I apprehend there will be some desire to discuss the amendments offered to the first paragraph of section 7, and I want to know from my friend from Minnesota [Mr. VOLSTEAD] if we may get some understanding as to the amount of time to be consumed on amendments to the first part of the section, and to the entire section?

Mr. MANN. How much time does the gentleman from North Carolina want on his amendment?

Mr. WEBB. I should think we can dispose of it in 35 or 40 minutes on our side.

Mr. MANN. Do you want that much time on this amendment?

Mr. HENRY. I should like to have 15 minutes on this particular amendment myself.

Mr. WEBB. I make this request, that we devote two hours to the discussion of the amendments to this entire section, one hour to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and the other hour to be controlled by myself.

Mr. MANN. Would it not be better to dispose of these amendments one at a time?

Mr. MURDOCK. And fix a time limit on each separate amendment.

Mr. WEBB. I think that would be more orderly, but I should like to have some understanding as to the time on the entire section.

Mr. MANN. We will try to reach an equitable understanding about that. I will say to the gentleman there is no desire to take up a great deal of time.

Mr. WEBB. How much time is desired on these amendments?

Mr. GARNER. The gentleman means on his amendment. There will be some discussion desired on the Thomas amendment.

Mr. THOMAS. I want some time on my amendment, Mr. Chairman. I am going to offer that amendment to the whole paragraph.

Mr. MURDOCK. I want 10 minutes on the Webb amendment.

Mr. MANN. How much time does the gentleman from North Carolina want on his amendment?

Mr. WEBB. I think we can dispose of it in 45 minutes on our side.

Mr. HENRY. It is understood that I shall have 15 minutes, is it not?

Mr. MANN. Very well; make it 45 minutes on a side. It is possible we may not use all the time on this side on this amendment, but we want time on the other amendments.

Mr. WEBB. Very well. You shall have that. I agree to that.

The CHAIRMAN. What is the request of the gentleman from North Carolina?

Mr. WEBB. I ask unanimous consent that on the amendment proposed by the committee, which I have just sent to the Clerk's desk, the debate be closed in 90 minutes, 45 minutes to be controlled by the gentleman from Minnesota and 45 minutes to be controlled by myself.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate on the pending amendment be closed in 1 hour and 30 minutes, one half to be controlled by himself and the other half by the gentleman from Minnesota [Mr. VOLSTEAD]. Is there objection?

Mr. QUIN. Reserving the right to object, Mr. Chairman, I would like to have both amendments reported.

The CHAIRMAN. There is only one amendment pending.

Mr. QUIN. I would like to have that reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. THOMAS. Reserving the right to object——

Mr. HOWARD. I make the point of order that it is too late to object.

The CHAIRMAN. The Chair thinks not; the gentleman from Kentucky was on his feet.

Mr. THOMAS. I would like unanimous consent for five minutes on this amendment myself.

Mr. WEBB. I will give the gentleman four or five minutes.

Mr. THOMAS. I want five, not "four or five" minutes. [Laughter.]

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina? [After a pause.] The Chair hears none.

Mr. WEBB. Mr. Chairman, the amendment which is under consideration is, in the opinion of the committee, in keeping with the declaration of the Democratic platform—to the effect that labor organizations and farmers' organizations organized for mutual help shall not be considered or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

It is needless to say that we have had much diversity of opinion in adopting and agreeing on this particular section, but after all, Mr. Chairman, we have embodied in this amendment what we understand to be the best legal interpretation of the best judges in the United States. Personally I have never had any idea that the existence and operation of labor organizations, of farmers' unions, or fraternal orders were ever intended to come within the provisions of the antitrust law. However, some labor leaders have contended for many years that labor organizations have their existence as a matter of sufferance and at the whim of the Attorney General, and if suit should be brought, if they were not dissolved entirely, much trouble could be given them. We are therefore writing into the statutes of the United States the concensus of opinion of the best judges of the country on this troublesome question. I have not had an opportunity of reading the opinion, but only last Friday the circuit court of appeals of the fourth circuit at Richmond, Va., held that a labor organization was not a conspiracy or combination in restraint of trade. Therefore we say that we have embodied in this section as set forth in the first part of section 7 and as expressed in the latter part of this amendment which I now offer what is generally understood to be the law and should be the law in the United States with reference to labor organizations, as well as fraternal and farmers' organizations. [Applause.]

I now yield 15 minutes to the gentleman from Texas [Mr. HENRY].

Mr. HENRY. Mr. Chairman, there has been so much controversy about what was intended when the original Sherman antitrust law was passed that I think we should make clear just what we intend by this law. Some of us did not believe section 7 as originally written by the Committee on the Judiciary expressed exactly what should be in this bill. Therefore we took exception to the language of the first part of the paragraph in section 7 and insisted there should be additional language. Among those who agreed that the language was not plain enough were the gentleman from North Carolina, Mr. KITCHIN, the gentleman from Illinois, Mr. HINEBAUGH, the gentleman from Illinois, Mr. GRAHAM, the gentleman from Iowa, Mr. TOWNER, the gentleman from Maryland, Mr. LEWIS, and myself. We met to confer, and concluded that we ought to make the language more explicit. In that conference held in the committee room of the Committee on Rules, on the evening of May 21, 1914, we agreed that this language should be added at the end of the first paragraph of section 7, to wit, after the word "thereof":

Nor shall such organizations, orders, or associations or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

This language I have read is exactly the verbiage used by the gentleman from North Carolina [Mr. WEBB] in the amendment offered by him and is the amendment agreed upon by Mr. KITCHIN and our conferees in my office. The Committee on the Judiciary courteously accepted the language as prepared by the gentlemen in the conference, believing, I assume, that we were correct and that the original language used by them was not quite explicit. So we came to a satisfactory agreement with the House Judiciary Committee about this addition to the first part of section 7, and, as far as I am concerned, we are standing squarely with the committee for that paragraph with our added language. We called into the conference with us the heads of the American Federation of Labor, and submitted this amendment to them, and said to them that we believed its adoption as an addition to section 7 would clearly exempt labor organizations and farmers' organizations from the provisions of the antitrust laws.

They agreed with us; they called their counsel into conference with them and with us, and we all concurred that this amendment added to the paragraph of section 7 would give these organizations what they have desired so long, and all they have been struggling for since the original enactment of the Sherman antitrust law.

In my judgment, when Congress was dealing with "combinations in restraint of trade" it never intended that the law should apply to labor organizations or farmers' organizations without capital and not for profit. The courts took a different view of it and construed the act as it was never intended that it should be interpreted. The time has come when we can correct that error and write the language in the law as those gentlemen insist that it should be and should have been.

I am glad of the opportunity of espousing their cause to-day and standing with them in accord and agreement. The Judiciary Committee has acceded to their position to the extent indicated by me, and so has the President. This is entirely a satisfactory solution of the question. [Applause.]

Mr. Chairman, unfortunately there are many men in this country who hesitate to espouse the cause of organized labor or the farmers for fear they will be called "demagogues." That has kept many a man from advocating on the floor of this House what he believed in his heart, because he dreaded adverse criticism. We have come up to the proposition to-day and we propose to meet it and say that these men are entitled to what they have been demanding, and we shall write it in the antitrust laws. Let us review the history of that matter for a little while. When the original Sherman law was proposed in the Senate, Senator George, of Mississippi, not a demagogue, but a great lawyer and a great statesman, offered this amendment:

Provided, That this act shall not be construed to apply to any arrangements, agreements, or combinations between the laborers made with a view of lessening the number of hours of labor or the increasing of their wages; nor to any arrangements, agreements, or combinations among persons engaged in horticulture or agriculture made with a view of enhancing the price of agricultural or horticultural products.

The amendment was agreed to without opposition. A little later in the proceedings the bill with amendments was referred to the Committee on the Judiciary, and when the committee reported it back to the Senate the George amendment was left out, because all agreed that the act as written without that language in it meant exactly what was contained in the George amendment.

Mr. GARNER. Mr. Chairman, will the gentleman yield for a question?

Mr. HENRY. Just for a question.

Mr. GARNER. The gentleman contends that it never was the intention to prohibit farmers' unions, for instance, from organizing to get better prices for their products?

Mr. HENRY. Yes.

Mr. GARNER. Will the gentleman contend that his proposed amendment will permit farmers' organizations to warehouse their cotton and agree among themselves that they will not sell it except at a certain price?

Mr. HENRY. Beyond the peradventure of a doubt it allows that very thing, and if it did not I would not vote for the amendment.

Mr. GARNER. There is where the gentleman differs from me with reference to the effect of his amendment.

Mr. HENRY. If it did not, I would not support it a single instant. It is as broad and strong as the George amendment and ought to be written into this law. Let us trace the history a little further. Later on, in 1900, when the Littlefield antitrust bill was before the House—and I happened to be a Member of that Congress—Mr. Terry, of Arkansas, offered an amendment which was agreed to in the House by a vote of 260 yeas to 8 nays. That amendment was offered on June 2, 1900, and is as follows:

Nothing in this act shall be so construed as to apply to trade-unions or other labor organizations, organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed.

So it was written into the antitrust bill as it passed this body and went to the Senate. After we put that exemption in the bill Mr. Littlefield lost all interest in it, and it was not heard of again in the Senate of the United States.

Next, on June 21, 1910, Mr. HUGHES, of New Jersey, offered an amendment to the sundry civil appropriation bill to this effect:

Provided further, That no part of this money shall be spent in the prosecution of any organization or individual for entering into any com-

bination or agreement having in view the increasing of wages, shortening of hours, or bettering the condition of labor, or for any act done in furtherance thereof not in itself unlawful.

By a vote of 82 to 52 that amendment was inserted in the sundry civil appropriation bill, and on June 23, 1910, when the bill came back from the Senate, Mr. Tawney, chairman of the Committee on Appropriations, moved to recede and concur—which meant that the House agreed to the Senate amendment—striking the Hughes exemption from the bill. That motion was agreed to by a vote of 138 to 130, and then it was that the disintegration of the standpat Republican Party began. No matter what gentlemen may say or think, when the Republican Party made it manifest that they were not willing to write this exemption in the antitrust laws the great labor organizations lost confidence in them and turned to another party. They came to the Democratic convention at Denver, and we wrote a promise in our platform. And then they came to Baltimore in 1912, and we wrote a pledge in that platform. We are here to redeem our word, just as we made it, and put the promised exemption in the antitrust legislation and send it to the Senate of the United States. [Applause.]

The amendment which has been offered by the Judiciary Committee, and has been prepared by Messrs. KITCHIN, LEWIS of Maryland, TOWNER, GRAHAM of Illinois, HINEBAUGH, and myself, in connection with them, is in the exact language of the Baltimore platform, to this effect:

The expanding organization of industry makes it essential that there should be no abridgment of the right of wage earners and producers to organize for the protection of wages and the improvement of labor conditions *to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade.*

This language construes itself. It is the Baltimore platform in exact words. It is the spirit, the substance, the verbiage, and the promise of the Democratic platform, and Democrats will do no less than carry out their pledges to the people on this question. [Applause on the Democratic side.]

Mr. Chairman, again, on February 26, 1913, when the sundry civil appropriation bill was under consideration, this amendment was offered by Representatives HAMILL and RODDENBERY:

Provided, however, That no part of this money shall be expended in the prosecution of any organization or individual for entering into any combination or agreement having in view the increasing of wages, the shortening of hours, or bettering the conditions of labor, or for any act done in furtherance thereof, not in itself unlawful: *Provided further*, That no part of this appropriation shall be expended for the prosecution of producers of farm products or associations of farmers who cooperate or organize in the effort to obtain and maintain a fair and reasonable price for their products.

The House agreed to that amendment, and on March 4, 1913, President Taft vetoed the bill because it contained that exemption. We passed it over his veto by the overwhelming vote of 264 yeas to 48 nays, and it went to the Senate, where the fight was waged on the question of exemption, and there in the Senate the bill failed.

Then the Democratic administration came into power, and again the Hamill-Roddenbery amendment was inserted in the sundry civil appropriation bill, which was passed through the Sixty-third Congress and signed by Woodrow Wilson. For these identical exemptions I have fought, and continue to fight. Our amendment, offered by Mr. WEBB, chairman of the Judiciary Committee, is as strong, salutary, and far-reaching as the twice-approved Hamill-Roddenbery amendment.

Now, gentlemen, organized labor has never asked that they be permitted under the law to commit crimes or to do unlawful things. They have never come to this Government and pleaded for special privilege. They have never asked for anything to which they are not entitled at our hands. They have said that when we are dealing with *conspiracies in restraint of trade and combinations and trusts* it was never intended that the man who sells his labor—his God-given right—should be classed as conspiring against trade or in unlawful combinations against the antitrust laws. We are now about to correct that error, and make it plain and specific, by clear-cut and direct language, that the antitrust laws against conspiracies in trade shall not be applied to labor organizations and farmers' unions.

When, as chairman of the Committee on Rules, I had the honor to present the resolution bringing up for consideration this bill and the Democratic administration antitrust program, it was my privilege to announce that section 7 of this antitrust bill was not satisfactory to labor, and that I heartily concurred in that view; and that a plain provision clearly exempting them from the antitrust laws would be presented and adopted by the House. We have prepared such provision, and the gentleman from North Carolina [Mr. WEBB] has presented it for us as labor and the farmers wish it. In the beginning of my remarks it is set out as approved by labor, the Committee on the Judiciary, the Democratic President, and skilled legal counsel for the wage earners. It is apparent that in a few brief moments it will be adopted by an overwhelming vote of the House. This executes the meritorious and just contract the Democratic Party has made with labor; and I rejoice that I am here to witness and participate in the triumph of the honorable men who win their bread by the sweat of their brow.

RECOMMENDATIONS OF THE PUJO MONEY TRUST COMMITTEE.

It is gratifying to state that not only has this important bill satisfied the laborer and the farmer, but it contains many other salutary and strong provisions, including some of the best recommendation of the Pujo Money Trust committee, which, as chairman of the Committee on Rules, I had the proud privilege of originating and putting on foot in the House a little over two years ago.

INTERLOCKING DIRECTORATES.

In dealing with banking corporations, interstate railways, and industrial corporations and trusts, the measure contains strong and effective provisions against interlocking directorates and all their attendant evils. It carries out the substantial provisions of the magnificent Money Trust and Steel Trust reports. Adequate penalties are provided. The plighted faith of the Democratic platform at Baltimore is kept and written into law. It makes guilt personal and consigns to prison flagrant violators of the law.

GOVERNMENT BY INJUNCTION ABOLISHED.

In several sections "government by injunction," through the usurpation of petty judicial tyrants, is destroyed and forever discontinued. No longer through the writ of injunction and the equity processes of the court can the unjust and tyrannical judge imprison and outrage honorable citizens without the right of trial by jury. The "midnight injunction" is banished and the citizen must have due and reasonable notice before he is deprived of his liberty and rights. He will have his day in court and not be outraged by secret judicial decree while his back is turned and the temples of justice shut against him. This is a great triumph for labor and justice, written in the very heart of this bill.

THE NEW FREEDOM FOR LABOR.

In section 18 a bill of rights, establishing a "new freedom" for labor, is written into solemn law to endure as a Magna Charta for those who toil and produce for the balance of mankind. I am happy to witness this day and to assist in passing this section that dedicates in our statutes a permanent command to the courts of equity and law to respect the rights of labor and cease outraging their inherent and God-given privileges. It reads:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

Then to make sure that no court shall ever attempt to pervert and nullify the law we are going to add at the end of section 18 this broad and explicit language:

Nor shall any of the acts specified in this paragraph be considered or held unlawful.

Is this not indeed a notable and triumphant victory for the laboring forces after their long and severe struggle for justice? My heart swells with pride when I ascribe this act of justice to the master hand of Democracy.

JURY TRIAL IN CASES OF CONSTRUCTIVE CONTEMPT.

Then follows ample provision for jury trials in cases of indirect contempt. Such is our platform promise, and thus by this strong language and act have we redeemed it. It satisfies labor and they have accepted it as a solemn redemption of our tendered pledge. What more could be asked? What more could be accomplished? In this bill labor has secured more rights and just privileges than all the legislation accorded them in a hundred years of Federal enactments! A great achievement for them and a wonderful record for Democracy!

THE STOCK-AND-BOND LAW.

The next bill coming up for consideration under the special rule is the Rayburn stock-and-bond law. This is another important recommendation of the Pujo Money Trust report. It prohibits the fraudulent and fictitious issuance of stocks and bonds by interstate railway corporations. It is patterned after and based upon the Hogg stock-and-bond law of Texas. It places these roads under the strong and dominating hand of the Government, and, wisely administered, will prevent the recurrence of the New Haven frauds and similar corrupt transactions. And so in a series of bills Democracy has come to the rescue of the people and honest men. We are doing those things we have promised the voters we would accomplish.

And having struggled through my public career for many years to bring about these reforms, I crave pardon for exulting with just pride that I have been instrumental as a member of the Rules Committee and Representative in helping to advance all these measures to the point of consummation. Let us hope that never again will special privilege be enthroned in high governmental places and the people plundered, despoiled, and robbed by those ever seeking unwarranted advantage. [Applause.]

Mr. WEBB. Mr. Chairman, will the gentleman from Minnesota consume some of his time?

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas [Mr. MURDOCK]. [Applause.]

Mr. MURDOCK. Mr. Chairman, if the amendment which the Committee on the Judiciary offered is amended, as proposed by the gentleman from North Carolina, and it will be, and that perfected paragraph satisfies those who have contended for years for the right of organized labor to exemption from the provisions of the Sherman antitrust law, this is the end of one of the most notable battles in the history of our country; but if this amended paragraph does not satisfy them, then the American Congress this morning is enacting a legislative tragedy——

Mr. GARNER. Will the gentleman yield?

Mr. MURDOCK. I would like to get started, if the gentleman will permit me. For over a period of 10 years this particular battle, which many presume is now about to close, has been one of the chief activities here. The men who have headed the American Federation of Labor, Mr. Gompers and those associated with him, have left no stone unturned, they have worked day and night, year in and year out, to accomplish this exemption. They not only have plead with every great national convention for party platform pledges for the enactment of this exemption into law, but they have worked here in Washington in season and out of season to accomplish this. And they have accomplished upon occasion in this body within my experience political revolution. They have upset party regularity and party majority. They have overriden the veto of a President. They stood here face to face for years against the powerful National Association of Manufacturers, which attempted in every way to block the avenues to public service and to keep back this legislation. The old Republican stand-pat leadership for years had as one of its chief activities the defeat of this proposition. They locked and doubled locked this proposition in the pigeonholes of committees; but the leaders of labor who were fighting for it never repined; they never lost heart. They kept on fighting for it. Why? Because they believed in it. When this Government made the first attack upon monopoly, labor had already begun to combine itself into organization. Why? For self-preservation and for self-protection; and when labor combined in this, my friends, it soon awoke to the benefactions and blessings of cooperation.

Now, I am one of those who are sometimes designated as the gentleman from Texas says some men here are designated. For there are those who have persistently called me a demagogue because from the very start of my career I have stood for all amendments which went to the exemption of organized labor from the provisions of the Sherman antitrust law. Why did I vote for them? Because I believe with all my heart and soul that the leaven that is working to the perfection of our Democracy is the aspirations and ideals of labor. [Applause.] I am in favor of giving to labor an exemption from the hindrances to progress that the courts have put upon it. Now, when we first passed the Sherman antitrust law labor believed it was exempted, and it went to the courts and the courts after long litigation told organized labor that under the terms of the Sherman antitrust law it was not exempt. That is, the courts sent organized labor back to Congress. It came here and prayed at the doors of your committees for exemption. It fought the most powerful lobby that has ever flourished in this country. It met rebuff and defeat. But it fought on and, finally, by the help of organized labor, the Democratic Party came into power. That party had given a pledge of exemption in the Baltimore platform which had been in the Democratic platform of 1908, and in response to the platform pledge the Bacon-Bartlett bills were introduced. They were direct and explicit in their terms.

Mr. BARTLETT. Will the gentleman permit me to interrupt him?

Mr. MURDOCK. I wish they had come out of the committee——

Mr. BARTLETT. Permit me to say——

Mr. MURDOCK. The gentleman realizes I have but a few moments——

Mr. BARTLETT. But they did come out of the committee and went on the calendar and an effort was made to get a rule from the Committee on Rules over which the gentleman from Texas presided and it could not be done.

Mr. MURDOCK. Yes; the Bacon-Bartlett bill has been smothered. Now, the Bacon-Bartlett bill was in plain, specific terms. It would have met the situation. But in place of its provisions the Democratic leadership placed upon this bill an amendment which did not exempt labor, which was unsatisfactory to a number of gentlemen on the Democratic side——

Mr. GARNER. Will the gentleman yield?

Mr. MURDOCK. If the gentleman will just let me go on with this narrative—those who protested against the original amendment in this bill as it was reported out of the committee succeeded in making themselves heard, and after a discussion pro and con there was added to the original amendment the phrase which we have offered to the bill to-day in the way of an amendment by the gentleman from North Carolina. Now, what does that amendment mean?

Mr. GARNER. That is what I wanted to ask the gentleman.

Mr. MURDOCK. What does it mean? Some of the friends of labor say that that amendment does exempt organized labor from the provisions of the Sherman antitrust law, but its enemies say that it does not exempt organized labor. Who knows? No man on the floor of this House. Who will determine? The courts.

Now, the tragedy of this transaction, my friends, is this: That after labor went to the courts and after the courts had sent it back to Congress, Congress sends labor back to the courts again. Eight or ten or twelve years hence the courts will decide what the amendment which we are about to adopt means.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Texas?

Mr. MURDOCK. No; I will not yield just now. If the gentleman will permit me, I will yield in a minute.

Now, Mr. Chairman, I am going to vote for this amendment. I voted originally for the Hughes amendment—in which I believe; which was explicit. I voted for the Hamill amendment. I have voted every time this matter came up in the House for plain, direct, specific language in favor of exemption. Had I been a Member of Congress 14 years ago I should have voted for the Terry amendment. I want the House to listen again to the language of the Terry amendment. Listen:

> Nothing in this act shall be so construed as to apply to trade-unions or other labor organizations organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed.

How certain that is, how direct, how sweeping, compared with the amendment which has been offered!

Now, I will yield to the gentleman from Texas [Mr. HENRY].

Mr. HENRY. When the amendment says that these organizations shall not be regarded as conspiracies or illegal combinations in restraint of trade under the antitrust laws, how can you make it plainer?

Mr. MURDOCK. Ah, you could make it a good deal plainer.

Mr. GARNER. Mr. Chairman, will the gentleman yield right there?

Mr. MURDOCK. I want to say to the gentleman from Texas [Mr. HENRY] that the gentleman from Michigan [Mr. MACDONALD] will offer an amendment which is direct, and which will make it plain, and will not be a subject of doubt in the courts, but will give the exemption to which labor is entitled under the law.

The CHAIRMAN. The time of the gentleman from Kansas has expired. The question is on agreeing to the amendment offered by the gentleman from North Carolina [Mr. WEBB].

Mr. CARLIN. Mr. Chairman, I yield five minutes to the gentleman from Georgia [Mr. BARTLETT].

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] is recognized for five minutes.

Mr. BARTLETT. Mr. Chairman, I shall support the Webb amendment, but in the time allotted to me I can not say what I desire to say on this subject, because for years I have

devoted much attention to it and have frequently voted for the principle embodied in it and endeavored to have legislation of this character enacted. I did hope that I might have opportunity to speak more at length on the proposition and not simply confine myself to a synopsis of the history of this matter or to mere statement of my reasons for insisting that labor organizations and farmers' associations should not fall under the antitrust law, but I have but a few minutes. Whatever may be the result of this amendment to the antitrust bill, I claim no special credit for it, but I do insist that I have endeavored, in season and out of season, at all times, to have the injustice of the Sherman Antitrust Act, as construed by the Supreme Court, which held such associations subject to that act, corrected by proper legislation.

In the last Congress I introduced a bill which has become known as the Bartlett-Bacon bill, or the Bacon-Bartlett bill, and which was reported to this House from the Committee on Labor and went on the calendar at an early day of that Congress, and the report of the committee on that bill I hold in my hand, which is as follows:

Be it enacted, etc., That it shall not be unlawful for persons employed or seeking employment to enter into any arrangements, agreements, or combinations with the view of lessening the hours of labor, or of increasing their wages, or of bettering their condition; nor shall any arrangements, agreements, or combinations be unlawful among persons engaged in horticulture or agriculture when made with the view of enhancing the price of agricultural or horticultural products; and no restraining order or injunction shall be granted by any court of the United States, or by any judge thereof, in any case between an employer and employee, or between employers and employees, or between persons employed and persons seeking employment, or involving or growing out of a dispute concerning terms or conditions of employment in any case, or concerning any agreement, arrangement, or combination of persons engaged in horticulture or agriculture with the view of enhancing prices as aforesaid, or any act or acts done in pursuance thereof, unless in either case said injunction be necessary to prevent irreparable injury to property or to a property right of the party making the application for which there is no adequate remedy at law; and such property or property right must be particularly described in the application, which must be sworn to by the applicant or by his agent or attorney.

In construing this act the right to enter into the relation of employer and employee, to change that relation and to assume and creat a new relation of employer and employee, and to perform and carry on business in such relation with any person in any place or do work and labor as an employee shall be held and construed to be a personal and not a property right. In all cases involving the violation of the contract of employment by either the employee or employer where no irreparable damage is about to be committed upon the property or property right of either no injunction shall be granted, but the parties shall be left to their remedy at law.

SEC. 2. That no person or persons who are employed or seeking employment or other labor shall be indicted, prosecuted, or tried in any court of the United States for entering into any arrangements, agreements, or combinations between themselves as such employees or laborers, made with a view of lessening the number of hours of labor or increasing their wages or bettering their condition, or for any act done in pursuance thereof, unless said act is in itself unlawful; nor shall any person or persons who may enter into any arrangements or agreements or combinations among themselves for the purpose of engaging in horticulture or agriculture with a view of enhancing the price of agricultural or horticultural products, be indicted, prosecuted, or tried in any court of the United States on account of making or entering into such arrangements, agreements, or combinations, or any act done in pursuance thereof, unless said act is in itself unlawful.

The purpose of this bill was to make arrangements, agreements, or combinations of wageworkers or farmers lawful, which the courts in interpreting the Sherman antitrust law have held to be illegal combinations in restraint of trade, and to restrict the injunctive power exercised by the courts over personal relations between individuals where no real property right is endangered or involved, and relegating causes in such personal relations to the adjudication of the law courts.

There has been some doubt expressed as to whether or not the Sherman antitrust law was ever intended to apply to organizations of workingmen and farmers when dealing with their own labor or the products of their own labor; but whether or not it was intended to apply to organizations of that character, the fact remains that it has been applied to them. An examination of the debates in the Senate discloses the fact that the author of the law, Senator Sherman, did not intend it to be and did not believe that it would be applied to organizations of workingmen or farmers. In the debate on the bill in the Senate on March 21 and March 24, 1890, Senators Hiscock and Teller called attention to the possibility of the measure applying to organizations of that character. Replying, Senator Sherman said:

The bill as reported contains three or four simple propositions which relate only to contracts, combinations, agreements made with a view and designed to carry out a certain purpose which the laws of all the States and of every civilized community declare to be unlawful. It does not interfere in the slightest degree with voluntary associations made to affect public opinion to advance the interests of a particular trade or occupation. It does not interfere with the Farmers' Alliance at all, because that is an association of farmers to advance their interests and to improve the growth and manner of production of their crops and to secure intelligent growth and to introduce new methods. No organizations in this country can be more beneficial in their character than farmers' alliances and farmers' associations. They are not business combinations. They do not deal with contracts, agreements, etc. They have no connection with them. And so the combinations of workingmen to promote their interests, promote their welfare, and increase their pay if you please, to get their fair share in the division of production are not affected in the slightest degree, nor can they be included in the words or intent of the bill as now reported.

Efforts were made time and time again to have that bill considered. A resolution was introduced by me, which went to the Committee on Rules, over which the gentleman from Texas [Mr. HENRY] presides, asking for a rule making the bill privileged, so it could be considered. This resolution was pressed in a hearing had before that committee, and the committee was urged to give us an opportunity to have the bill considered by the House, because it was known whenever the House could have an opportunity to vote upon this measure it would pass it, having on several occasions supported a like measure in no uncertain terms and by no uncertain majorities. But we could not persuade the Committee on Rules to report the bill. Again, when this Congress met, the first bill I introduced was this same bill, a copy of which I will make a part of my remarks. The principle of my bill is now incorporated into this bill reported by the Committee on the Judiciary and as contained in the amendment offered by the gentleman from North Carolina [Mr. WEBB].

I congratulate the Committee on the Judiciary; I congratulate the country that the hour is now at hand when the shackles placed by a misconstruction of the Sherman antitrust law upon labor and like organizations shall be stricken from them, and when they shall stand before the country free to exercise their right to perform and do those acts as organizations that they are entitled to do and those things which no one should ever construe they were forbidden to do by the Sherman antitrust law. [Applause.]

In pursuance of that, I wish to put into the RECORD as to the right to do them the statement of that great lawyer and learned Senator, Mr. Hoar, who made it on the 27th day of March, 1890, when this original proposition was before the Senate, and when the right of Congress to pass it was challenged by other great lawyers, among them Mr. Edmunds, of Vermont. Senator Hoar then made that statement, clear and forcible, which assured the Members of the Senate that, in his opinion, we had the right to enact such legislation. It was not enacted. It was put upon the bill as an amendment, and it was referred to the Committee on the Judiciary in the Senate, and the bill came back without it; and those same Senators, Senator George and Senator Vest, stated to the Senate that that amendment had not been incorporated because no one could construe that the Sherman antitrust law would in any way affect labor organizations.

I quote from the CONGRESSIONAL RECORD of March 27, 1890:

The PRESIDING OFFICER. The question is upon the amendment last reported.

Mr. EDMUNDS. Let it be read again.

The CHIEF CLERK. On page 4, line 66, section 1, after the word "action," the Senate, as in Committee of the Whole, inserted the following clause:

"*Provided*, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers made with a view of lessening the number of hours of their labor or of increasing their wages; nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture made with the view of enhancing the price of their own agricultural or horticultural products."

Mr. HOAR. Mr. President, I wish to state in one single sentence my opinion in regard to this particular provision. If I correctly understood the Senator from Vermont—I did not hear him fully, and very likely, hearing only a part of what he said, I did not apprehend it—he thought that the applying to laborers in this respect a principle which was not applied to persons engaged in the large commercial transactions which are chiefly aimed at by this bill was indefensible in principle. Now, it seems to me there is a very broad distinction which, if bourne in mind, will warrant not only this exception to the general provision of the bill, but a great deal of other legislation which we enact, or attempt to enact, relating to the matter of labor.

When you are speaking of providing to regulate the transactions of men who are making corners in wheat, or in iron, or in woolen or in cotton goods, speculating in them or lawfully dealing in them without speculation, you are aiming at a mere commercial transaction, the beginning and end of which is the making of money for the parties, and nothing else. That is the only relation that transaction has to the State. It is the creation or diffusion or change of ownership of the wealth of the community. But when a laborer is trying to raise his wages or is endeavoring to shorten the hours of his labor, he is dealing with something that touches closely, more closely than anything else, the government and the character of the State itself.

The maintenance of a certain standard of profit in dealing in large transactions on wheat or cotton or wool is a question whether a particular merchant or a particular class of merchants shall make money or not, or shall deal lawfully or not, shall affect the State injuriously or not; but the question whether the standard of the laborer's wages shall be maintained or advanced or whether the leisure for instruction, for improvement, shall be shortened or lengthened is a question which touches the very existence and character of government of the State itself. The laborer who is engaged lawfully and usefully and accomplishing his purpose in whole or in part in endeavoring to raise the standard of wages is engaged in an occupation the success of which makes republican government itself possible and without which the Republic can not in substance, however it may nominally do in form, continue to exist.

I hold, therefore, that as legislators we may constitutionally, properly, and wisely allow laborers to make associations, combinations, contracts, agreements, for the sake of maintaining and advancing their wages in regard to which, as a rule, their contracts are to be made with large corporations who are themselves but an association or combination or aggregation of capital on the other side. When we are permitting and even encouraging that we are permitting and encouraging what is not only lawful, wise, and profitable, but absolutely essential to the existence of the Commonwealth itself.

It is true that in the Danbury Hat case, in Two hundred and eighth United States, the Supreme Court decided that the action of the labor union involved in that case was a violation of the Sherman antitrust law. It is also true that no longer ago than Friday last another circuit court of appeals of the United States decided in a like case that such action of a labor organization was not in violation of the Sherman antitrust law. Therefore, to make the thing clear, in order to do that which Congress has the right to do, to make the statute so clear that "he that runs may read," to make the way so plain that "the wayfaring man, though a fool, can not err therein," we propose to put the proposition in this bill in compliance with the universal demand of the labor organizations, in compliance with the Democratic platforms in 1908 and 1912, and, above all, in compliance with the demands of right and justice and civilization. [Applause.]

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Availing myself of the privilege of extending my remarks, the Democratic national convention of 1908 declared in its platform:

The expanding organization of industry makes it essential that there should be no abridgement of the right of wage earners and producers to organize for the protection of wages and the improvement of labor conditions, to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade.

The Democratic national convention of 1912 also declared:

The expanding organization of industry makes it essential that there should be no abridgement of the right of the wage earners and producers to organize for the protection of wages and the improvement of labor conditions, to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade.

At the first session of this Congress I introduced the bill I have just referred to, which reads as follows:

A bill (H. R. 1873) to make lawful certain agreements between employees and laborers, and persons engaged in agriculture or horticulture, and to limit the issuing of injunctions in certain cases, and for other purposes.

Be it enacted, etc., That it shall not be unlawful for persons employed or seeking employment to enter into any arrangements, agreements, or combinations with the view of lessening the hours of labor, or of increasing their wages, or of bettering their condition; nor shall any arrangements, agreements, or combinations be unlawful among persons engaged in horticulture or agriculture when made with the view of enhancing the price of agricultural or horticultural products; and no restraining order or injunction shall be granted by any court of the United States, or by any judge thereof, in any case between an employer and employee, or between employers and employees, or between persons employed and persons seeking employment, or involving or growing out of a dispute concerning terms or conditions of employment in any case, or concerning any agreement, arrangement, or combination of persons engaged in horticulture or agriculture with the view of enhancing prices as aforesaid, or any act or acts done in pursuance thereof, unless in either case said injunction be necessary to prevent irreparable injury to property or to a property right of the party making the application for which there is no adequate remedy at law; and such property or property right must be particularly described in the application, which must be sworn to by the applicant or by his agent or attorney.

In construing this act the right to enter into the relation of employer and employee, to change that relation and to assume and create a new relation of employer and employee and to perform and carry on business in such relation with any person in any place or do work and labor as an employee, shall be held and construed to be a personal and not a property right. In all cases involving the violation of the contract of employment by either the employee or employer where no irreparable damage is about to be committed upon the property or property right of either no injunction shall be granted, but the parties shall be left to their remedy at law.

SEC. 2. That no person or persons who are employed or seeking employment or other labor shall be indicted, prosecuted, or tried in any court of the United States for entering into any arrangements, agreements, or combinations between themselves as such employees or laborers, made with a view of lessening the number of hours of labor or increasing their wages or bettering their condition, or for any act done in pursuance thereof, unless said act is in itself unlawful; nor shall any person or persons who may enter into any arrangements or agreements or combinations among themselves for the purpose of engaging in horticulture or agriculture with a view of enhancing the price of agricultural or horticultural products, be indicted, prosecuted, or tried in any court of the United States on account of making or entering into such arrangements, agreements, or combinations, or any act done in pursuance thereof, unless said act is in itself unlawful.

Mr. CARLIN. I yield five minutes to the gentleman from Kentucky [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, to say the least of this amendment, it is as ambiguous as the prophecy of a Roman oracle. As a matter of fact it means nothing. It is a mere declaration of that which is now the law. To make the statement that this law shall not be construed so as to hold certain organizations to be illegal is simply to state that those organizations per se shall not be declared illegal by this law. You might insert a paragraph declaring that under this law the Baptist Church or the Masonic Order should not be construed to be an illegal combination in restraint of trade. They are not illegal, even, in the absence of that declaration. Agricultural organizations and labor organizations under this law are not illegal combinations, even without that declaration; and notwithstanding that declaration the very moment that an agricultural association or a laborers' organization violates any provision of this law it is applicable to such association, and they can and will be punished under the law. Any man knows that. For instance, should these associations have in their by-laws or charters articles which allowed them to form conspiracies, to form monopolies in restraint of trade, does any man contend that the very moment they attempted to carry out such declaration of the organization they would not fall under this law? To be sure they would. If you are going to exempt these organizations, exempt them. If you are not going to exempt them, say so. The amendment which I shall offer after this amendment has been voted on simply declares that the provisions of the antitrust laws shall not apply to any of these organizations. There you have a clear-cut exemption. I understood from the gentleman——

Mr. HENRY. Will the gentleman yield?

Mr. THOMAS. I decline to yield to the gentleman from Texas. He twice refused to yield to me. But I will reconsider and yield to him. [Laughter.]

Mr. HENRY. I thank the gentleman. I did not mean any discourtesy to him. I just did not have much time.

Mr. THOMAS. You had more time than I have. Will you have my time extended?

Mr. HENRY. I will yield next time to the gentleman.

Mr. THOMAS. Ask your question.

Mr. HENRY. The question is this: This amendment provides that these organizations shall not be held to be conspiracies or illegal combinations in restraint of trade under the antitrust laws. Now, what else would you allow them to do?

Mr. THOMAS. I would exempt them from the operations of this law. Notwithstanding the amendment which you are supporting, the very moment they violated any of the provisions of this law they would be punishable under the law.

Mr. HENRY. Would the gentleman allow them to commit violence under his amendment?

Mr. THOMAS. No, sir; they would not be allowed to commit violence under my amendment, because there are laws in this country to punish any man who commits violence or who destroys property. There are laws outside of the antitrust laws for the punishment of crime.

The CHAIRMAN. The time of the gentleman has expired.

Mr. THOMAS. I ask unanimous consent for five minutes more.

Mr. HENRY. I ask unanimous consent that the time be extended five minutes on each side, five minutes to be given to that side and five minutes to this.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the time be extended 10 minutes, 5 minutes to be controlled by the gentleman from North Carolina and five minutes by the gentleman from Minnesota [Mr. VOLSTEAD].

Mr. STAFFORD. Reserving the right to object, do I understand that has the approval of the Committee on the Judiciary?

Mr. CARLIN. I have no objection. We are glad to accommodate our friends.

The CHAIRMAN. Is there objection to the request?

There was no objection.

The CHAIRMAN. Does the gentleman from Virginia yield five minutes to the gentleman from Kentucky?

Mr. CARLIN. Yes; I do.

The CHAIRMAN. The gentleman from Kentucky is recognized for five minutes more.

Mr. THOMAS. Mr. Chairman, the amendment which I shall offer after the committee amendment has been voted on is simply to the effect that the provisions of this law shall not apply to these organizations. Mr. Chairman, there are some Members of this House who want to talk all the time and do not want anybody else to talk.

The CHAIRMAN. The committee will be in order.

Mr. THOMAS. As I had started to state, I believe when we go a-catting we ought to go a-catting; and I believe that if we are going to take these organizations out from under this law we ought to do it in such a way that there can be no mistake about it and no reason for any court decisions upon the question hereafter. [Applause.] My amendment simply says that these antitrust laws shall not apply to these organizations. If any man thinks he can make an amendment plainer than that, I would like to hear from that gentleman, even the gentleman from Texas [Mr. HENRY].

Now, these organizations ought to be exempt. These antitrust laws are intended for the suppression of monopolies and trusts. Who ever heard of an agricultural trust? Who ever heard of a laborers' trust? They are not the men who have the wealth of this country. Yet under these antitrust laws as they have been construed by the courts if a number of farmers pool their tobacco or their wool or any other agricultural product and employ an agent to sell it for them in order to get the best obtainable prices they commit an act for which they are subject to punishment under these antitrust laws, as the tobacco farmers of the State of Kentucky were. You have heard of that case. A number of farmers pooled their tobacco. One of them went out of the pool, took his tobacco to the depot, and got a bill of lading for it to Cincinnati. His neighbors met and sent a committee to him and asked him to stand with them and not ship his tobacco to Cincinnati. He said, "Well, he had had the trouble of hauling it to the depot, and that it was all right if they would haul it back." They hauled it back. For their action they were indicted and fined $3,500. President Taft finally pardoned them of the fine, but he never would do it until the prosecution of the Beef Trust under these antitrust laws failed in Chicago. So I say, gentlemen, that if you are going to take them out of the provisions of these laws, take them out. If you are going to keep them in, why, keep them in, and do not go to beating the devil around the bush about it. Come out plainly and let us keep them in or take them out, one of the two. The gentleman from Texas [Mr. HENRY] tells you that when the Sherman law was passed it was intended to exempt farmers' and laborers' organizations.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Michigan [Mr. MACDONALD].

The CHAIRMAN. The gentleman from Michigan [Mr. MACDONALD] is recognized for five minutes.

Mr. MACDONALD. Mr. Chairman, I am very much in favor of the principle of exempting these organizations from the operation of the antitrust laws. I expect to vote for the Webb amendment, if for no other reason, for the moral effect that the adoption of that amendment will have; but I am not given to self-deception, and in voting for that amendment I am not deceiving myself as to the effect of that amendment. That amendment may have some beneficial effect for the organizations mentioned therein, but it will not exempt those organizations from the operation of the antitrust laws. Now, the Supreme Court in the case of Loewe against Lawlor, commonly known as the Danbury Hat case, put this matter up to Congress in no uncertain terms. They say, on page 279 of volume 208 of the United States Reports:

> After the Sherman law was enacted bills were introduced in the Fifty-second Congress—

And then they enumerate all the bills that have been introduced to amend the Sherman antitrust law, making it inapplicable to labor and these other organizations. And then they say:

> Congress therefore has refused to exempt labor unions from the comprehensive provisions of the Sherman law against combinations in restraint of trade, and this refusal is the more significant, as it followed the recognition by the courts that the Sherman antitrust law applied to labor organizations.

Now, the amendment that has been offered by the gentleman from North Carolina makes by implication these organizations subject to the terms of the law. It defines certain acts which are said in general terms to be permissible, and therefore by implication it leaves forbidden other acts which are not permissible, and makes by implication these organizations subject expressly to the terms of the Sherman law if they should violate any of the provisions of the law.

Another point is this: The amendment provides that they shall be liable only within certain limits and those limits are confined to this—where they exercise their powers only for mutual help and not for profit. They are limited absolutely to that field in their operations, and who, forsooth, will decide whether their operations fall within the restrictions of mutual help and not for profit? Why, the courts, of course; and you will have the same old battle for definite construction over and over again. Therefore you have for certain purposes and as to certain acts brought these organizations where the courts may hold them expressly within the operation of the Sherman law.

Now, every gentleman who gives this matter any consideration instinctively realizes that this is true. The gentleman from Texas [Mr. HENRY] realizes it as well as anybody else, because in his speech this morning he said, "Gentlemen, we are going to make this law not to apply to these organizations." He said in this speech "not apply"; why does he not say so in the amendment? There is no way of making it any plainer or simpler or doing what you want to do than to use the language that the gentleman used in his speech, but which is not used in the amendment.

Mr. MURDOCK. Will the gentleman yield?

Mr. MACDONALD. Certainly.

Mr. MURDOCK. And are not the words "shall not apply" the words used in the Terry amendment, in the Hamill amendment, and in the Hughes amendment?

Mr. MACDONALD. Yes; every amendment proposed to this law have used the words, and that was in the amendment that the Supreme Court in the Danbury Hat case said if Congress had done those things there would be no question about the operation of the law. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLIN. Mr. Chairman, I yield three minutes to the gentleman from Wisconsin [Mr. KONOP].

Mr. KONOP. Mr. Chairman, I am in favor of the amendment exempting labor, farm, and other like organizations from the operations of antitrust laws. Section 7 of this bill, which provides that the existence and operations of such organizations shall be construed not to be forbidden, means very little and provides no exemption whatever. I am in favor of exempting these organizations because in this bill we are not dealing with associations of men, but associations of dollars for profit. We are aiming at the gigantic trusts and combinations of capital and not at associations of men for the betterment of their condition. We are aiming at the dollars and not at men. We do aim to put an end to association of men's dollars which unlawfully restrain trade, destroy competition, and create monopoly. Let us put the man above the dollar and exempt all associations of men organized for the betterment of their condition. [Applause.]

Mr. Chairman, we are a great country. We have been blessed with wonderful natural resources. We have a great Government. We have great farms and great industries. And what is it that makes our country so great? Not the idler, not the men who sit amidst downy bolsters and costly appliances, but the men who work with hand and brain. These are the men who contribute to our country's greatness. These are the men who produce the wealth of this country. It is true that both capital and labor are essential in our industrial progress, both are entitled to consideration, but the men who labor are entitled to higher consideration, because they are the producers of all wealth and capital. The men who labor in the field and factory are the men who make our country great.

The almighty dollar needs no protector. The idle rich, whose money is invested in great, oppressive trusts and combinations, have always been able to take care of themselves and then yet some. But the laboring man has struggled through the ages for emancipation. The struggle is still on. Slavery, peonage, feudalism, and oppression of every kind has been the lot of the producers of wealth. But a new era has come. Labor is now organized. The farmers are now organized. And because of these organizations much has been done to elevate the toiler to a higher plane. Much is being done toward a complete emancipation of the man who works. Better, sanitary, and safer places and conditions are provided for labor to work. The hours of labor are being shortened and a better living wage is being paid, not because of the philanthropy of capital, but because through organization labor is able to obtain these reforms. Where would parcels post be had it not been for the organized demand of the farmers of the country? What we should do is not to hamper these great organizations of laborers and farmers of the land, but to encourage them in the conservation of the health and welfare of the great masses. [Applause.]

Some say that this amendment is class legislation, and hence unconstitutional. Mr. Chairman, way back in March 25, 1890, nearly a quarter of a century ago, when the Sherman antitrust bill was under consideration in the Senate as in Committee of the Whole, Senator Sherman offered an amendment to the bill, as follows:

> *Provided*, That this act shall not be construed to apply to any arrangements, agreements, or combinations between laborers, made with a view of lessening the number of hours of their labor or of increasing their wages; nor to any arrangements, agreements, associations, or combinations among persons engaged in horticulture or agriculture, made with a view of enhancing the price of their own agricultural or horticultural products.

This amendment was adopted on that day. On March 27, when the bill was before the Senate, some discussion arose as to the constitutionality of the amendment, and Senator Hoar, of Massachusetts, used these words, in which I entirely concur:

> I hold, therefore, that as legislators we may constitutionally, properly, and wisely allow laborers to make associations, combinations, contracts, agreements for the sake of maintaining and advancing their wages, in regard to which, as a rule, their contracts are to be made with large corporations who are themselves but an association or combination or aggregation of capital on the other side. When we are per-

mitting and even encouraging that we are permitting and encouraging what is not only lawful, wise, and profitable, but absolutely essential to the existence of the Commonwealth itself.

When, on the other hand, we are dealing with one of the other classes, the combinations aimed at chiefly by this bill, we are dealing with a transaction the only purpose of which is to extort from the community, monopolize, segregate, and apply to individual use, for the purposes of individual greed, wealth which ought properly and lawfully and for the public interest to be generally diffused over the whole community.

Mr. Chairman, the Sherman antitrust law was passed in 1890. It was aimed at trusts and combinations of capital; and in spite of that law the trusts and combinations have grown. Its author at that time hoped that it would solve the trust problem, but the trusts and combines grew with impunity, and we are to-day hoping that we have a cure for the trust evils. I shall vote for these three trust bills because I believe it is a step in the right direction. My only hope and wish is that the trust evil can be curbed. But in the discussion of the different sections of these bills we hear that we can not go further than interstate commerce goes in curbing these great combinations. I think the trust problem could better be handled if constitutionally we had power to regulate all commerce, and I think the time will come when an amendment to the Constitution of the United States giving Congress power to regulate commerce, intrastate as well as interstate, will be given serious consideration.

Now, Mr. Chairman, in conclusion, I hope that the amendment exempting these organizations will prevail. Let us give encouragement to the toilers and farmers of the land. These men are the very bulwarks of our prosperity and greatness.

Mr. CARLIN. Mr. Chairman, I yield to the gentleman from Mississippi [Mr. QUIN].

Mr. QUIN. Mr. Chairman, I understand they are about to slip a little amendment in here that the courts and the country can easily handle. Now, I want to put something in that has guts in it. This amendment talks about the courts "construing" and "holding." My friend from Texas talks about what Gen. George did. I have the honor to come from the same State that James G. George came from. If Senator George were here, he would be an advocate for this amendment. He was recognized as one of the greatest lawyers in the whole Union, and if he were living to-day he would throw up his hands in holy horror at the forward steps taken by the Federal courts of this country. In his day, gentlemen, the courts did not undertake to legislate away the rights of the people; but now it has come to the point that the people can not get their rights except through Congress, and when we come here some Members want to put a little easy stuff in that the courts can construe against the farmers' unions and the labor unions. Let us put language in here that they can not misconstrue; let us put in language that nothing in this antitrust law shall apply to farmers' unions and labor unions. We know that these organizations and farmers' unions are not any criminal trusts. The great trusts and monopolies of this country that with greedy hands grind profits out of human blood want such measly language as you are proposing to put into this antitrust law. They do not want the strong, virile language, the Anglo-Saxon words that every schoolboy, much less a Supreme Court judge, will understand; and for that reason I hope that the House will adopt the Thomas amendment into this antitrust law. [Applause.]

The great and powerful influence of monopolistic corporations has been growing and overriding the United States Congress and the courts. Many on this floor claim that the Sherman law is good enough. If that law is good enough, I ask in the name of the people why it is that ever since this law has been on the statute books the trusts and monopolies have organized, grown, multiplied, and prospered to such an extent that the people have been robbed and the courts of the country openly defied? If the Sherman antitrust law is good enough, there is something radically wrong with the Federal courts and the Federal district attorneys. I am induced to believe that there is something the matter with both. The Republican Party never did want to enforce the law against big money.

Virtually all of the Federal judges and the United States district attorneys are the appointees of the Republican Presidents. Some of them try to enforce all the law.

Where these district judges and attorneys endeavored to put the big criminals, the head men in these gigantic trusts, behind the bars, these conscientious officials have been handicapped in every possible manner. Many judges have endeavored to enforce the Sherman antitrust law, but have you heard of one of these trust nabobs being sent to the penitentiary? The only effective way that it has been enforced is against the poor people. It has never yet hurt a rich man. The poor men who compose farmers' unions and labor unions have felt the heavy hand of the Sherman antitrust law.

My friend from Texas [Mr. HENRY] says Senator George never thought the law would apply to such beneficent organizations. The whole record shows that the great lawyers of that Congress never dreamed of such an outrage as the Sherman antitrust law being construed by the courts so as to affect the farmers and labor organizations of this country. The only way on earth to keep the eagle eye of the Federal courts off the farmers' unions and the labor unions is to make this antitrust law so plain that they are not included in its scope that any child in the United States can understand it. If there is the slightest ambiguity in the language, you will hear of some Federal judge in "Possum Hollow" announcing a decision that the farmers' union is a trust in restraint of trade and that the individual members are subject to indictment if by concert of action they hold their cotton or other farm products for a higher price. I am going to vote for the Webb amendment, and on top of that I shall support the Thomas amendment. The Webb amendment leaves too much for the courts to construe; but if you will follow it up by adopting the Thomas amendment, we all know the farmers' unions and the labor organizations will be in the "clear" for all time.

The great capitalists of the United States have been busy for many years organizing powerful trusts, and, as an incident to their business, they have oppressed labor, destroyed honest competitors, robbed and plundered the people. Their activities have not been confined to any special lines, but these financial freebooters have operated in every nook and corner of every field of all commerce. Every household necessity is now under the control of some trust. They did not even think enough of the poor to let meat remain free from their greedy, monopolistic hands. Can any man in this House think of an organization of thieves equal to that gigantic aggregation of capitalists who form the Beef Trust? Why is it that none of these men are wearing stripes in the penitentiary? It is either the fault of the law or it is the fault of the Federal judges and district attorneys where they operate. I believe this bill we are passing now will be so plain that no judge can construe it so as to release the trust magnates.

The public-service corporations in many instances have been operated in a high-handed way by trust officials. Right now you have under your observation in the Department of Justice an investigation of one of the biggest railroad "steals" that ever disgraced this country. I refer to the New York, New Haven & Hartford Railroad episode. The ex-president of that system, Mr. Mellen, under oath, admits that Mr. Morgan and other capitalists who held positions as directors openly robbed the stockholders out of many millions of dollars. In 1903 that railroad system had liabilities of $94,000,000, and more than 22,000 people put their savings into it in the form of stock at $240 a share, which paid annual dividends of 8 and 10 per cent every year. These trust magnates began to plunder it, and after raking in fabulous fortunes through methods that ought to lead them direct into the northeast corner of a penitentiary, the railroad system in 1913 had the enormous liability of $415,000,000, and its stock pays no dividend at all; but the once splendid system is now a financial wreck, a sad monument to the rascality of big business. This is just one little case I am calling to mind.

Nearly all of the great railroad systems of this country have been robbed in the same way. It is made possible through the interlocking directorate. If the big bankers who have the handling of other people's money are permitted to own and control the directors of railroads and steamship lines, as well as other public utilities, the people are going to suffer. Many of these big bankers have demonstrated that they will do shady tricks to get a few extra millions of dollars. The men who compose the many trusts seem to think all the people of the United States are mere slaves, to work to add increased millions to the greedy coffers of the avaricious money kings. Right now these railroad corporations are before the Interstate Commerce Commission endeavoring to be allowed to raise their freight rates. The captains of industry have been quite successful under the Sherman antitrust law in robbing these railroads, and they now have the gall to come up to the Capitol and ask that the servants of the people give them legal permission to rob the people through high freight rates. The American people are not going to stand this much longer. They have demanded relief through legislation, and this Congress must give it to them. The men who toil with their hands—the farmers and the artisans and tradesmen—have turned their eyes toward this Capitol and they are going to watch till relief comes or they will place men in these seats who will transmute their sentiments into law. The people know that no man could get to be worth $800,000,000 in 50 years if the laws were not so fixed that the few can prey on the many. They demand that we correct that evil, and unless I am badly fooled I believe this Congress has done much to correct

it. If we pass these antitrust laws properly, I am certain that many millions of our population will see the dawn of a brighter day. If the money power were to continue to dominate this Government as it did before the Democracy came into power, the signs of a revolution would soon be seen on our national horizon, and it would not be a bloodless one, either. The great amalgamation of capital and the greed that seems to animate the powerful men in control of the great wealth of this Republic is a reason for the foundations of our Government to begin to shake. How have these financial kings, many of them common thieves, filling high places, operated for the last few years?

Here is what one of them testified to in Washington City on the 23d day of May, 1914, just one week ago last Saturday: Mr. Charles S. Mellen, ex-president of the New York, New Haven & Hartford Railroad, being on the witness stand, said Prof. Weyman, of Harvard, got $10,000 a year from the New Haven Railroad for "fanning" fires of sentiment in the railroad's favor; his brother $25 a day and his father $50 a day. Lawyer Wardell got $12,000 and Lawyer Innes $15,000. Many other names were mentioned in this connection. Gentlemen, the idea of such a proposition—the officers of that railroad stealing the stockholders' money to hire a college professor and a few lawyers to fool the people. Listen. Mr. Mellen swore that more than 1,000 newspapers received various sums from the railroad. That is not all. One E. D. Robbins, a lawyer of Hartford, got $100,000 "for the purpose of molding public sentiment in Connecticut in 1907 over a charter." Gentlemen, that is the kind of business many of the captains of industry have been engaged in in all branches of big business. Immense fortunes are spent in spreading propaganda to fool the people, and then the people are robbed threefold to pay it back with big profits. These same henchmen of big money have contributed $50,000 and $100,000 to campaign funds with the nonchalance of a drummer buying a cigar. They did not give that money away, but they gave it with the intention of having a "friend at court," and it seems they never failed to have a friend at court till Democracy put a President in the White House. Do you believe that any honest business man in this country would object to this bill if he understood what it means? We are trying to help the honest and legitimate business of this country, and this law will help. I want to put the criminals in business in the penitentiary and free the American people from the shackles they have been forced to wear all these years. The law ought to give the little man in business the same show that it gives the big, strong financial magnate. The law we are fixing to pass will land the big fellow behind the bars if he wrongfully destroys the business of his little competitor. The powerful trusts of this country have not only held up the public and forced them to pay an exorbitant price for all the necessities of life, but they have been able to hold the produce of the farm down to the minimum price. They have forced the farmers to pay big prices for what they buy and compelled them to accept small prices for what they raise on their farms. This greed of organized wealth has held the wages of the poor men, women, and children in factories and mines down to the lowest scale, and the tills of the powerful have been filled with dollars coined out of this poor, human labor.

Gentlemen, can any man who has a heart that throbs with sympathy and justice oppose the amendments to protect the farmers and the laboring people? I am going to stand by them on every vote. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, I was not satisfied with the original language used in the paragraph, neither am I satisfied with the amendment proposed; nevertheless, I will support the amendment. I will do this because it is the best that can be obtained, and I believe will assist, at least in some degree, to make clear the object and purpose of the provision.

That object and purpose is, Mr. Chairman, to definitely state that the provisions of the antitrust laws shall not be so interpreted as to forbid the existence or operation of labor or farmers' organizations instituted for mutual help. With that object and purpose I am in entire sympathy.

I presume there has been no proposition discussed in recent years which has absolutely no valid objection to it that has been more misrepresented and abused. It has been termed a proposal to exempt certain classes from the operation of the law, while others are included; to punish one and release another for the same act; to say that all are not equal before the law. It is none of these things.

Any association of the classes mentioned, or any member who violates the antitrust laws will be liable to their penalties the same as any other association or person. It is merely provided that the organization or legitimate operation of such associations shall not be held to be within the prohibitions of the statute.

NOT WITHIN PURPOSE OF SHERMAN ANTITRUST ACT.

Nothing is better established than the fact that such associations were not intended to be included in the Sherman antitrust law. In February, 1890, Senator Sherman introduced his bill making associations or agreements in restraint of trade or to monopolize trade illegal. A month later, and while his bill was pending, the question was raised as to whether under any circumstances it would apply to labor or farmers' organizations. In order to settle this, Senator Sherman himself proposed the following amendment to his bill:

Provided, That this act shall not be construed to apply to any arrangements, agreements, or combinations between the laborers, made with a view of lessening the number of hours of labor or increasing their wages; nor to any arrangements, agreements, or combinations among persons engaged in horticulture or agriculture made with a view of enhancing the price of agricultural or horticultural products.

This amendment was agreed to by the Senate without a division.

The bill and amendment went to the Senate Judiciary Committee, and was sent back to the Senate without the amendment. When the reason for the omission of the amendment was demanded, Senators George and Vest stated that the amendment had not been included because it was unnecessary; that no one could construe the act so as to include such associations.

Referring to the claim that such organizations might be affected, Senator Sherman said:

It does not interfere in the slightest degree with voluntary associations made to advance the interests of a particular trade or occupation. It does not interfere with the Farmers' Alliance at all, because that is an association of farmers to advance their interests and to improve the growth and manner of production of their crops and to secure intelligent growth and to introduce new methods. No organizations in this country can be more beneficial in their character than farmers' alliances and farmers' associations. And so the combinations of workingmen to promote their interests, promote their welfare, and increase their pay, if you please, to get their fair share in the division of production, are not affected in the slightest degree, nor can they be included in the words or intent of the bill as now reported.

Senator Hoar, who had a large part in the framing of the act, defended the exclusion of labor organizations from the operation of the bill on the broadest grounds. He said:

When you are speaking to regulate the transactions of men who are making corners in wheat or in iron or in woolen and cotton goods, you are aiming at a mere commercial transaction, the beginning and end of which is the making of money for the parties, and nothing else. * * * But when a laborer is trying to raise his wages, or is endeavoring to shorten the hours of his labor, he is dealing with something that touches closely, more closely than anything else, the government and the character of the State itself. * * * I hold therefore that as legislators we may constitutionally, properly, and wisely allow laborers to make associations, combinations, contracts, agreements, for the sake of maintaining and advancing their wages, in regard to which, as a rule, their contracts are to be made with large corporations, who are themselves but an association or combination or aggregation of capital on the other side. When we are permitting or even encouraging that, we are permitting and encouraging what it not only lawful, wise, and profitable, but absolutely essential to the existence of the Commonwealth itself.

The circumstances attending the adoption of the Sherman Antitrust Act are thus referred to that it may be thoroughly understood that the law was not intended to apply to farmers' or labor organizations. The great men who took part in formulating that law did not desire, and did not intend, that under any circumstances any such organizations should be prohibited or punished. The bill could not have had the support of its own sponsors if it had been so interpreted. It could not have passed had it been so understood. There has never been a time since that a law having such interpretation could have passed either House of Congress. What an assumption of superior virtue it is that condemns as unjust and unmoral efforts to make the law in form and substance what was from the first the intention of Congress, and ever has been, and is now, its purpose!

An unfortunate interpretation by the courts has given the act a meaning not intended and not desired. Now we propose to make clear what was intended and what is desired. That is all. To do so is neither novel nor strange. It is being done everywhere in cases where an act is found not to have the intended purpose. If the objects sought to be reached are not secured, the act is enlarged to include the intended objects. If persons or objects not intended to be included or affected are found to be within the terms of the act, it is amended so as to exclude them. And that is what we propose to do here.

It is a strange thing that gentlemen will endeavor to hold included within the prohibition of the statute those things not intended to be included, and thus to compel a submission to penalties on the part of those whom they would not venture even to propose to punish as an independent proposition. Imagine anyone here proposing to make a labor organization

illegal, and to punish the efforts of its members to obtain better wages, shorter hours, or better conditions by fine and imprisonment! Who would dare on the floor of this House to introduce and defend a bill making farmers' cooperative associations, designed to obtain better prices, greater market facilities, or cheaper transportation rates unlawful? And yet certain persons affect to see in an effort to avoid such calamitous result something questionable and unworthy. I never would have supported a proposition to punish the organization or operation of such associations, and I do not hesitate now to support any legislation necessary to prevent such punishment; and I do so without apology, because I believe it is right and justifiable from every possible standpoint.

THE PROVISION AS AMENDED.

It may be well to state the provision as it will stand if this amendment is adopted:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

I am sorry the language used is not clearer. I regret that it contains limitations which may obscure its meaning. The first limitation, that such associations shall be instituted for the purpose of mutual help, is not important, for it would be easy to prove that such was their purpose.

The next limitation, that such associations must not have capital stock, is of more importance, for many strictly cooperative associations issue capital stock to their members as an incident to corporate organization and operation. It is a needless requirement and should have been omitted.

The next requisite, that such associations to be within the benefits of the exclusion must not be conducted for profit, is unnecessary and dangerous. It should have been omitted. Still, I do not give it the broad interpretation given it by some Members. It is true that any association, social, scientific, or literary, may be conducted with profit to its members. But the word "profit" as used in the bill has no such broad meaning It means, and will doubtless be interpreted to mean, conducted for the purpose of obtaining profits as an organization to distribute dividends to its stockholders. Most farmers' cooperative associations would not fall within its terms. Indeed, it is reasonably clear that no cooperative association where the receipts above salaries and operating expenses are returned to the patrons, producers, or consumers of the association would be within the excluded classes. Neither would labor organizations which succeeded in raising wages, although of undoubted "profit" to their members, be within the terms of the statute. "Profit" in a general sense and "profit" in a business transaction are entirely distinct and separate in meaning and application, and it is the latter meaning which is intended in the provision. Still, it would have been better to have omitted language subject to possible misinterpretation. The paragraph should have been entirely recast and its meaning made clear.

But I do not believe Members will be justified in voting against the provision because its language is not all that could be desired. The matter is too important to allow minor imperfections to bring about its defeat. It may secure all we desire. It must better existing conditions. At least it is something gained, a distinct step in advance.

The general purpose is clear. It is to be hoped that in its interpretation the courts will be governed by the larger view. That such is the present trend of decisions is a hopeful sign. As Senator Sherman said in the debate on the great and beneficial act of which he was the author, "It is difficult to define in legal language the precise line between lawful and unlawful combinations."

"Trade" has a broad meaning, and "restraint of trade" is a phrase of wide scope. Many things may result in a restraint of trade entirely innocent and even praiseworthy. Thousands of the agreements of everyday life might be interpreted as a restraint of trade if an absolute meaning is given the term. It is not the purpose of the law to prevent or punish these. The restraint of trade meant in the act is that which is intended to destroy competition, to establish monopoly, to drive out of business an honest competitor. As Senator Sherman said:

It is the unlawful combination, tested by the rules of common law and human experience, that is aimed at by this bill, and not the useful and lawful combination.

It needs no argument to prove that labor organizations to better the conditions of the workingmen and that farmers' organizations to better transport and market the food products of the country ought not to be considered or made by statute unlawful. It is to prevent such result that this provision is inserted in the bill, and for the reasons stated it should receive the support of every just and fair-minded man.

LABOR ORGANIZATIONS.

It is altogether too common to condemn labor unions because of the violence of some frenzied striker. It is quite likely that the outrages of those who represent the employers in labor troubles are at least equal in number and enormity to those chargeable to the strikers. All who really wish for the betterment of conditions and the good order of society hope for a method by which the peaceful settlement of these unfortunate conflicts can be secured. But it is wrong and altogether unjust to condemn all labor organizations because of the violence or crimes of some of their members.

Labor unions have accomplished a great good and are absolutely necessary to protect labor against the exactions and impositions of capital. They have brought about better wages, shorter hours, and better conditions of labor, and such results are not only a blessing to those immediately affected, but they are a blessing to society and the State. It ought to be our desire and effort as legislators to encourage and foster such organizations, and not to discredit and punish them. Manhood and not money is here involved. The welfare and happiness of men, women, and children are here affected, not mere property rights. We are dealing with things vital and sacred, and should not touch them lightly or with selfish or sordid aim.

There are in the United States more than 30,000 local labor associations. Many, perhaps most, of these have agreements with their employers. These agreements relate not only to wages but to many things beneficial alike to employer and employees. If these agreements should be held as restraint of trade, if the organizations should be dissolved and the members sent to jail, the Nation would be shocked and its sense of justice outraged. Yet that is what may occur at any time a Government prosecutor sees fit to institute proceedings. It is to prevent this that the provision under discussion is incorporated in this bill.

It is objected that this legislation is class legislation. If by this is meant that it will not apply to all our population it must be admitted. It does not apply to all of our 100,000,000; it only applies to about 30,000,000. But that is rather a large proportion. It constitutes a considerable interest. Most of our legislation is class legislation if this is class legislation. Nine-tenths of the items of every appropriation are class legislation in this sense. There is no merit in this objection.

The English act of 1875 specifically relieved combinations of wage earners, concerned with questions of wages, working hours, and labor conditions, from the condemnation which the common law applied to combinations in restraint of trade. We are now at this late date only doing what a sense of justice and of sound policy led England to do nearly 40 years ago. It is a reproach, which we should hasten to remove, that our regard for the rights of labor and the welfare of our workingmen is not so great, nor our humanitarian standards so high as that of Great Britain.

FARMERS' ASSOCIATIONS.

The benefits of farmers' organizations designed to induce a larger production, better quality, cheaper transportation rates, better prices, and better market facilities are generally recognized. Trusts among the farmers or monopolies in farm products by the producers are impossible. Local cooperative association is perhaps the most effective means by which conditions in regard to the matters stated can be improved, and such improvement will result in benefit for the consumer as well as the producer. To restrain such associations would be absurd. To declare them unlawful would be the very height of folly. To allow them to remain *subject to* possible prosecution and their members liable to indictment as criminals is indefensible from every possible standpoint.

Discussing the fact that the farmer and producer does not receive a fair proportion of the price paid by the consumer the Secretary of Agriculture, in his last annual report, says:

It is clear that before the problems of marketing the individual farmer standing alone is helpless. Nothing less than concerted action will suffice. Cooperation is essential. * * * All the successful attempts in the marketing of any product anywhere in the world have come through organized effort. * * * The aim should be an economic arrangement which shall facilitate production, lead the producer to standardize and prepare his product for the market and to find the readiest and best market for his product. Such action will result in gain to the producer as well as to the consumer. Furthermore, it is desirable that such concerted action shall proceed from below upward. * * * Experience shows that the best results are secured only when the members of such a cooperative society are those who are bona fide producers.

Already is the wisdom and, indeed, the necessity of such cooperation becoming evident to the farmers. There are now

established and in operation in the United States cooperative associations of creameries, 2,165; of cheese factories, 336; elevators, 2,020; besides many hundreds of fruit, cotton, tobacco, and other associations regarding which accurate statistics are not available. This is but the beginning of a movement which is bound to develop to immense magnitude as its necessity shall be understood and its merits recognized.

The food problem of a nation is ever a vital one. The high price of food products paid by the consumer and the small price received by the producer is becoming understood and is a condition that must be remedied. That one half of the price finally paid by the user of food products is absorbed by transportation and middlemen is a condition everyone must see ought not to exist. It is the concensus of opinion of those who have most carefully and dispassionately studied the question that the remedy lies in associated effort, in cooperative associations of the producers. As the Secretary of Agriculture says:

All successful atttempts in the marketing of any produce anywhere in the world have come through organized effort.

It is to protect such associations from assault by those who will profit by their absence that this provision is inserted in this bill. It is to prevent the possibility that efforts which are so manifestly for the benefit of all the people should be discredited and punished that we are now urging the adoption of the pending legislation.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. JOHNSON].

Mr. JOHNSON of Washington. Mr. Chairman, I am proud to say that I am and have been for a long time an active member of the International Typographical Union. And for a great many years it has occurred to me that it has been a mistake on the part of those in high places, while admitting that the differences between capital and labor constitute a great problem, to invariably put it up to labor itself to solve that problem—the knottiest one of all. Why should labor—tired with tedious hours and strenuous effort—be always asked to find for itself the solution?

This section 7 of this antitrust bill is a case in point. Not so long ago it was discovered that the Sherman antitrust law does what its framers did not intend it to do—that is, it catches by the throat and would throttle organized labor.

Thereupon organized labor must solve another problem. This section 7 of this new antitrust bill was written. Labor accepted the section. Then the discovery was made that section 7 would not serve the purpose—that it is like the hollow log lying under the wire fence through which the pig undertook to go from one field to another. The pig went through the hollow log all right, but the log was curved, and the pig landed right back in the same field. That is your section 7. Labor figured it out, and asked for the amendment which is now offered by Chairman WEBB, and which I support. My regret is that section 7 and the amendment are made a part of an antitrust bill which I fear can not stand up when it comes under the close criticism of another lawmaking body.

It is not a partisan question, as some have tried to make it appear here to-day. The flaw in section 7 was, I understand, pointed out by one of the Nation's leading Republicans. I am glad that organized labor accepted that tip.

Does anyone contend that the Sherman antitrust law ever was meant to prevent the organization of labor? Few—very few—make that declaration. Some men who unfortunately can not see that those who pay wages to labor need the upgrading, contract-making, legitimate American labor organizations, manned by leaders who would mean well to all labor—be it union or otherwise—would hang on to these decisions, and would gladly see skilled labor deprived of its right to organize.

Some who deal with labor consider the whole proposition with alarm. But they need not. On the one hand is labor, organized under competent leaders, willing to give a fair day's work for a fair day's pay; willing to make contracts and live up to them; willing to have peace—in fact, urging peace.

On the other hand, if you strike down organized labor, choke it to death, you will add to the ranks of those so-called revolutionists, who will not have peace, who are in the hands of agitators, who go from one strike into another, and who do not and can not help those who toil.

Let those who pay wages choose with whom they prefer to deal. I have heard the prediction made by the gentleman from Iowa [Mr. TOWNER]. I will go a step further and predict that the time will come—let us hope that it is far distant—when the people of the United States will thank God they have organized and ready the American Federation of Labor, which lays the flag of the United States on its altar, which respects the rights of property, and which is eternally opposed to revolution; firmly opposed to direct action; an organization which helps workingmen instead of destroying them, and which stands against those aggregations which make contracts only to break them; against those organizations which teach "No God, no master"; against those un-American agitators who pledge men to disregard their oaths and urge them to perjure themselves whenever necessary, who advocate the destruction of property secretly, and who do all in their power to stop the wheels of progress. Oh, if these be dilemmas, which will you have? One is American, the other is not. One leads on to peace, the other leads to strife. Which will you have? [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I do not agree with the suggestion of the gentleman from Washington [Mr. JOHNSON] with reference to the language incorporated in this bill by the Committee on the Judiciary. I think their intention by that language was to accomplish precisely what is being accomplished by the insertion of this amendment. Evidently it satisfied everybody for a while, with the exception of a few, and as a result of the objection raised by them this new amendment is proposed.

I must take exception to the remark of the gentleman from Texas [Mr. HENRY] when he said this amendment was submitted to the Judiciary Committee and comes before the House approved by that committee. It was not submitted to the Committee on the Judiciary in any form that I ever heard or knew of, but is presented here as an amendment on the floor of the House.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Certainly.

Mr. THOMAS. I would suggest to the gentleman from Pennsylvania that probably there is a new Judiciary Committee, and that the gentleman from Texas [Mr. HENRY] is the chairman of it. [Laughter.]

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I accept the suggestion of the gentleman from Kentucky. It may be true. I regret exceedingly that this bill comes before this House involving three separate subjects of legislation. One is the regulation of business, another is the regulation of judicial procedure, and another is the regulation of labor and other organizations. If these matters were prepared and presented to us in separate bills, then they could receive their distinct support or opposition as men might feel toward them.

So far as the Webb amendment now proposed is concerned, it seems to me that it effectuates what the committee proposed in the original section 7, only in broader and clearer language. It provides that a certain class of organizations and their members shall not be held liable as conspiracies in restraint of trade or monopolies under the language of the antitrust law. As I understand it, it does not exempt them if they are guilty of aggressive, malicious, and criminal acts. If these are committed, then they are as much liable as any other class or set of citizens, and that is as it should be, for in matters of crime there ought to be no classification of the citizens of our country.

Mr. GARNER. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Certainly.

Mr. GARNER. Mr. Chairman, I proposed an inquiry to my colleague, Mr. HENRY, of Texas, when he was discussing this amendment, and I desire to now propound the same inquiry to the gentleman from Pennsylvania, because I have a great deal of respect for his opinion concerning the legal constructions of this amendment. That is this: If cotton raisers should warehouse their cotton, a number of them, we will say 10,000 farmers, representing, say, a million bales of cotton, and determine that they would not sell until they got a certain price, would not that be a violation of this law?

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I will answer that directly, first, by saying that in my judgment it would, for the simple reason that that would be creating a corner in cotton, and a conspiracy to raise or depress the price of any commodity has been a crime in all the history of the Anglo-Saxon people. I will answer it in another way. The Webb amendment provides that certain organizations shall not be held to be conspiracies or organizations in restraint of trade, and that refers us back to the language of section 7 to ascertain what class of associations are covered by this exemption. When we refer to section 7 we read:

Associations instituted for the purpose of mutual help and not having capital stock or conducted for profit.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. GARNER. Can not the gentleman have more time?

Mr. VOLSTEAD. I yield two minutes more for the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for two minutes.

Mr. GRAHAM of Pennsylvania. These are the organizations that are intended to be exempt as organizations from the operations of these antitrust laws. I was very much impressed with the argument of my young friend, the Progressive in Pennsylvania, Mr. William Draper Lewis, the dean of our law school, when he said before the Judiciary Committee that the same law ought not to operate and regulate wares and merchandise and things that operated to regulate labor; and these bills ought to be divorced; the three portions ought to be divorced and separated from each other. For I am in this embarrassing position: I am going to vote to sustain the Webb amendment to this bill and incorporate it in the bill, and upon other grounds in which the bill is damaging and injurious to the business interests of this country I must vote against it as a whole. The Webb amendment will be adopted and the bill will be triumphantly passed in this House by the Democratic majority, so the absence of my vote on its final approval will not be missed, whereas I shall have expressed my willingness to exempt from the operations and effect of this statute the existence of these corporations but not any unlawful acts. [Applause.]

Mr. CARLIN. How much time has the gentleman from Minnesota consumed?

The CHAIRMAN. The gentleman has 21 minutes remaining, and the gentleman from Virginia 12 minutes.

Mr. VOLSTEAD. I yield 5 minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, I shall vote for this Webb amendment, because it does accomplish a purpose that there ought not to be any difference of opinion about. Whether it goes as far as it ought to is a question that we need not discuss now; and I wish just for a moment, Mr. Chairman, to give my opinion of what will be accomplished by the adoption of this amendment. In the first place, I must disagree with the gentleman from Pennsylvania [Mr. GRAHAM] that the original section 7 accomplished the same purpose.

Mr. GRAHAM of Pennsylvania. Will the gentleman permit an interruption?

Mr. LENROOT. I will.

Mr. GRAHAM of Pennsylvania. I meant to say—and if I did not I did not express myself fully—that it was intended by the gentlemen of the committee to accomplish the same purpose. That was my understanding; that is all.

Mr. LENROOT. With that statement I have nothing further to say, but it is entirely clear to me that the original section accomplished absolutely nothing so far as the exemption of these organizations are concerned from prosecution under the antitrust laws; but with this amendment it does just this—that whatever opinion may be entertained as to the acts of individual members of these organizations, with this amendment adopted the organization itself can not be dissolved, the organization itself can not be pursued as having violated the law, and therefore it is a step forward regardless of the question of whether it goes far enough or not. But now, Mr. Chairman, I want to direct myself for just a moment to another proposition, a legal proposition, that runs all through section 7, and that is the use of the words "shall be construed," and so forth. It is most unfortunate, Mr. Chairman, that the committee has used this language.

It is of course within the province of this Congress to construe any act of its own; but, Mr. Chairman, it is not within the province of this Congress to attempt to construe any act of a previous Congress. But by this language it is attempted to construe all of the antitrust laws. Now, it is entirely clear to every lawyer that it is the province of the legislature to make the law and it is a judicial function to construe it. This Congress has no power to say to the court how it shall construe a law heretofore made; and the effect of all of it is, if the courts specifically uphold it, as I believe they will, they will entirely throw out of consideration the words "shall be construed" and say that it was the intention of Congress to change the law, as unquestionably it is. Now, this language has been criticized time after time by the courts. For instance, in a case in the Supreme Court of the United States, speaking of identical language, it said:

> But for the unfortunate and unnecessary use of the word "construed" in this sentence we apprehend that none of the resistance to this class of taxes now under consideration would have been thought of.

And all the way through the cases the courts have struggled to uphold the acts of Congress and legislatures, but only by saying that, while the legislature used the words "shall be construed," the real purpose was not to construe the law but to change it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield the gentleman one additional minute.

Mr. LENROOT. Now, Mr. Chairman, I am satisfied the courts will in interpreting this law say that the words "shall be construed" shall be thrown aside, and that it was the intention of this Congress to modify the existing antitrust laws; but this Congress has no power to modify the existing antitrust laws as to acts committed under them prior to the passage of this act; and if there is any idea that by using this language we are changing the law with respect to existing cases, we have no power to do it, and we have utterly failed.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Pennsylvania [Mr. HULINGS].

Mr. HULINGS. Mr. Chairman, I have always believed that the organization of labor is the only defense the workingman has against the inevitable tendency under the competitive system to reduce wages to the lowest point of subsistence. I therefore am in favor of legalizing and recognizing to the fullest extent these organizations; but it seems to me that the committee in proposing this legislation did not accomplish anything in that direction. If you will permit me to paraphrase this seventh section, it will read something like this:

> That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of a railroad company or a steamboat company or to forbid or restrain individual members of such organizations from carrying out the legitimate objects thereof.

And adding the Webb amendment:

> Nor shall such organizations or members thereof be held to be unlawful combinations or conspiracies in restraint of trade.

Of course a railroad company is not an unlawful combination, and of course a labor organization is not an illegal organization, and if that be true what does the section mean? It seems to me that there is a concealed purpose here to throw to the laboring men of the country something that means nothing; in fact, something that gives them nothing that they do not now have. Of course these organizations are not now illegal and in restraint of trade and conspiracies, and they never were. Take out of the section "labor organizations" and put in instead "railroad organizations," and nobody will pretend that under the antitrust laws the section would exempt the railroad organization from dissolution by the courts for violation of the antitrust law. How, then, can it be maintained that if the language of the section so paraphrased would make a railroad organization liable to dissolution that the section as it stands would not make a labor organization liable to dissolution?

But what you ought to do—and I suppose this is the real meat in the coconut—is to do something which will meet the real question. If members of such an organization commit an illegal act, that will be sufficient under the antitrust laws to warrant the dissolution of that organization.

Now, that, as I understand, is the real thing. Nobody, I suppose, wants to exempt people in this country from the consequences of illegal acts. Nobody asks Congress to do that. A railroad, a trust organization, if it commits illegal acts, may be dissolved by the courts; the whole institution may be dissolved. The purpose of the laboring man, as I understand it here, is that if they commit illegal acts, the court may go after the individual members responsible for the illegal acts; but the labor organization of which the lawbreakers may be members itself can not be dissolved. But the section under consideration does not do this at all, and I fear it does not give labor and farm organizations any real exemption.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Pennsylvania yield to the gentleman from Kansas?

Mr. HULINGS. Yes.

Mr. MURDOCK. It is a question as to what is illegal. The gentleman has read the bill. Does he believe, under this bill, that in case of a strike, where the strikers assemble peaceably, remote from the place of the strike, an injunction would lie against them for peacefully assembling?

Mr. HULINGS. I do not think it ought to; and I think the power of injunction has been greatly abused by the courts, especially in labor disputes.

Mr. MURDOCK. It looks to me, under this bill, as if it will.

Mr. HULINGS. That would be a matter for the court when the act should be brought before it for adjudication. I fear the act itself is not clear.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. WEBB. Mr. Chairman, does the gentleman from Minnesota [Mr. VOLSTEAD] desire to use the remainder of his time now?

Mr. VOLSTEAD. I would rather not. I have some little time left.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Missouri [Mr. DICKINSON].

The CHAIRMAN. The gentleman from Missouri [Mr. DICKINSON] is recognized.

[Mr. DICKINSON addressed the committee. See Appendix.]

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Missouri [Mr. HENSLEY].

The CHAIRMAN. The gentleman from Missouri [Mr. HENSLEY] is recognized.

Mr. HENSLEY. Mr. Chairman, I am in hearty accord with the purpose sought to be obtained by the amendment offered by the gentleman from North Carolina [Mr. WEBB], chairman of the Committee on the Judiciary. I am in favor of exempting labor organizations, farm organizations, and fraternal organizations from the operations of the antitrust laws. I have never been able to understand the process of reasoning on the part of the courts of our country which has brought these organizations within the purview of the Sherman antitrust law. One has but to review the speeches made by Senator Sherman, author of the antitrust act; Senator Vest, of Missouri—than whom there were no greater—and many other noted lawyers and statesmen then serving in the Senate of the United States to see and to understand to a certainty that Congress had no thought of including these organizations within the operation of the law; but nevertheless, in some instances, the courts have construed the law to apply to these organizations, which has resulted in great harassment to the laboring people everywhere.

The laboring people, through their representatives, for many years have put up a gallant fight, insisting upon this law being construed as the lawmakers intended it to be and as common humanity and even-handed justice demand. The representatives of labor on the part of the farmers of this Nation and those representing the men who toil in the factories and toil in the mines, the men who produce the wealth of the Nation and who fight the battles of our country, have pressed upon Congress to write an exemption into the law which would indicate the intention of Congress to not bring these people within the operations of the antitrust act; but the party heretofore in power has at all times turned a deaf ear to these appeals and have failed and refused to do that which, it seems to me, to have been their plain duty to this great body of toilers. So finally the Democratic Party, in convention assembled at Baltimore in 1912, declared in favor of this exemption, and so it remains for this Congress, this Democratic Congress, to write into this antitrust legislation an exemption which will be so clearly and unmistakably put that none can be deceived by the language employed, that none of the organizations heretofore mentioned shall be affected by this antitrust legislation or the Sherman antitrust law. It is written in this amendment just as the people most affected by it asked that it be written. So that, Mr. Chairman, to-day by this piece of legislation we are crowning the efforts of the laboring people, covering many years, with the success that is only their just deserts; and I rejoice in this triumph, because it is not only for the good of these organizations mentioned in the amendment, but for the common good of all mankind.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from California [Mr. RAKER].

The CHAIRMAN. The gentleman from California [Mr. RAKER] is recognized.

Mr. RAKER. Mr. Chairman, I shall support the amendment to section 7, proposed and presented by the gentleman from North Carolina [Mr. WEBB], the chairman of the committee. I believe that it will add to the efficiency of the section and will carry out the desires of labor.

I understand that those organizations, those interested, have gone over the proposed amendment, and are satisfied with the amendment as it is now proposed by the committee instead of the proposed amendment that was presented by them and sent to each Congressman some days ago, where they proposed to amend section 7 by striking out certain language and using the words "shall not apply."

Gentlemen have discussed here the language "shall construe." You will find here that there is an additional word—"the court shall not hold" or will not be permitted to hold that these organizations are acting in restraint of trade.

Section 7, with the addition of the Webb amendment, will then read as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof; nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

The section as thus amended has been agreed upon and is satisfactory to the American Federation of Labor, the Farmers' National Organization, and the Brotherhood of Locomotive Engineers and Firemen of the United States. This will bring about the legislation that labor has been working for for over 25 years, and it now becomes the privilege of a Democratic Congress and a Democratic President to see that such legislation is enacted. The executive council of the American Federation of Labor has been actively and earnestly engaged in bringing about this legislation. In the American Federation of Labor Weekly News Letter, published at Washington, D. C., on Saturday, May 23, 1914, they have given a history of the legislation that is now being considered as contained in section 7 of this bill, which is as follows:

AMERICAN FEDERATION OF LABOR EXECUTIVE COUNCIL ACTS ON TRADE-UNION EXEMPTION CLAUSE.

WASHINGTON, *May 23.*

The American Federation of Labor executive council takes exception to the trade-union exemption clause of the Clayton antitrust bill which, it is claimed, is intended to cover those demands of organized labor embodied in the Bartlett-Bacon bills. At the council's session last week the following resolutions were adopted:

Whereas the American Congress, in its wisdom, enacted a law on July 2, 1890, known as the Sherman antitrust law, which was intended by them to apply exclusively to large combinations of wealth—so-called trusts of property—for the avowed and specific purpose of preventing monopoly and exploitation of special privileges.

It was undoubtedly the intention of Congress to enact a law that would be effective in the prevention of huge combinations of wealth from crushing their competitors in the business world; it was also the avowed and openly expressed opinion of the statesmen who wrote that law that it should not apply to farmers' or laborers' organizations established for the betterment of producers of wealth.

The United States Senate, in Committee of the Whole, on March 26, 1890, while considering the Sherman bill, almost unanimously agreed to a provision exempting the organizations of working people from the proposed act.

On June 2, 1900, in the Fifty-sixth Congress, the House of Representatives, by a vote of 260 to 8, adopted a similar declaration in a supplementary amendment to the Sherman Act.

On June 2 and June 21, 1910, the House of Representatives again declared that the Sherman Act should not apply to the voluntary association of working people.

On February 20, 1913, in the Sixty-second Congress, the House of Representatives again made a similar declaration.

On February 28, 1913, the Senate accepted those provisions.

On March 4, 1913, after President Taft had vetoed the declaration, the House of Representatives, by a vote of 364 to 48, passed the bill over the veto of President Taft with the declarations intact.

On April 14, 1913, in the Sixty-third Congress, the House of Representatives, by a vote of 198 to 47, again declared itself in favor of the above-stated declarations.

On May 7, 1913, the United States Senate, by a vote of 41 to 32, agreed to the House declaration, and on June 23, 1913, President Woodrow Wilson signed the sundry civil appropriation bill, approving the Hamill-Roddenbery provisos exempting labor and farmers' organizations from the antitrust appropriation section of that act.

At the Denver convention of the Democratic Party in 1908, and at the Baltimore convention of the Democratic Party in 1912, emphatic declarations were unanimously adopted by those conventions pledging the Democratic Party, if elected to power, to enact legislation so that the organizations of labor and producers "should not be regarded as illegal combinations in restraint of trade."

Hon. Woodrow Wilson, the candidate for the Presidency, in his speech of acceptance, emphatically pledged himself to support that specific plank in the platform of his party.

The above historical facts can neither be disputed nor denied; and

Whereas the antitrust bill, H. R. 15657, now being considered by the House of Representatives, is the administration measure and is intended to cover supplementary trust legislation, with the avowed purpose to meet the Democratic platform declarations in reference to its labor planks.

I here insert an article from Organized Labor in its issue of May 23, 1914. Speaking upon this question, the following pertinent and applicable language is used:

[From Organized Labor, Saturday, May 23, 1914.]

LABOR'S POSITION ON THE ANTITRUST LAW.

President Wilson is said to be in favor of subjecting trades-unions to the provisions of the Sherman law against combination in restraint of trade. It is proposed that the unions shall not be subject to injunction for such action as may restrain trade. A strike or a boycott may be punished just as the organization of a trust in business. This proposal is supported by the contention that the law should bear upon all people alike, upon the labor striker as upon the engrosser and forestaller of commodities or the railroad combiner. To exempt the unions would be, it is said, to grant them a special privilege. All of which sounds and looks good; but is it?

A labor union has no special privilege bestowed by the State. It hasn't even a charter. Corporations have advantages as such. They are creatures of the State and subject to regulation. Labor unions are not formed to make profits. They are formed to prevent the lowering of wages even more than to further the raising of wages. That the unions seek a labor monopoly in retraint of trade is not true. Their end is not a monopoly of work, but proper pay for the work the workers perform. And it must not be forgotten that back of the labor union is the laboring man. That man has a right to himself. He has a right to work or not work, as he pleases, and if he withholds his work he is not restraining anybody's trade or commerce. If he prevents another man from working, that is something more than an offense against the Sherman Act, if it is anything. He can be punished for it as a crime or misdemeanor under other laws, but he should not be punished

by penalties for ignoring injunctions ex parte. The contention of union-labor leaders that unions should be exempt from the operation of the injunction provisions of the Sherman Act is a sound one, says Reedy's Mirror. It is a contention based upon the workingman's right to his own labor. The inclusion of labor unions under the new act is not necessary. If they violate that law, they usually lay themselves open to prosecution for more serious violations of law.

Clearly the Sherman antitrust law was not meant to apply to combinations of labor. That law was and is directed against combinations of corporations. There is no question of equality under that law as between privileged corporations and united workers. Surely no sane person wants the Sherman Act used to force a man to work for some one he doesn't want to work for. That's what the application of the Sherman Act to union labor would amount to. Union labor hasn't anything belonging to all the people entitling the Government to regulate it beyond compelling it to keep the peace. But the big corporations have governmental privileges, special favors, and Government rightly regulates them. A labor organization that might be subject to action under the proposed law would be subject to more drastic action for grosser offenses first. And this consideration alone makes it plain that the Sherman Act was never intended to apply to union labor. The exemption of organized labor would be no privilege at all. What labor organization aims at and what combinations and trusts aim at are entirely different things. The one seeks only to see that the laborer gets his proper hire. The other seeks to gough labor of its share of what it produces. The President should favor the labor exemption, because if he does not the Sherman Act will be made the means to prevent the workingman from bettering his pay or the conditions under which he shall earn that pay.

In speaking upon this same subject the following appears in the American Federation of Labor, published at Washington, D. C., in its issue of Saturday, May 30, 1914:

VICTORY IS IN SIGHT—LABOR TO BE FREED FROM ANTITRUST LAWS, INJUNCTION ABUSE, AND UNJUST CONTEMPTS.

WASHINGTON, *May 28.*

The parliamentary situation of the Clayton antitrust bill in Congress, in which labor is vitally affected, has reached a satisfactory stage. For years the American Federation of Labor contended that the Sherman antitrust law was never intended to apply and should not have been applied to the voluntary organizations of the working people. By reason of the decision of the Supreme Court in the Hatters' case, and of several courts in other cases, that law was made to apply to organizations of workers. It is unnecessary at this time to recount the various phases and developments of the efforts to secure remedial legislation which the working people of the country have so long and so justly demanded. There was an apparent disposition on the part of those in control of legislation to enact a bill adequate to meet the needs of the working people. But upon close study and scrutiny the representatives of the American Federation of Labor soon learned that the labor sections of the tentative drafts of the Clayton antitrust bill were ineffective, and insisted upon changes to conform to declarations of the Democratic and the Progressive Parties. For a time it appeared that divergent opinions would result in a permanent cleavage. Representatives of the American Federation of Labor insisted upon good faith being observed. After many changes the representatives of all parties and the American Federation of Labor reached a general agreement. The American Federation of Labor has had the hearty cooperation of the labor group in Congress and the representatives of the railroad brotherhoods and of the farmers' organizations.

In the Clayton bill dealing with supplementary legislation on the Sherman antitrust law is incorporated the following agreed-upon section:

"SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers, agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

There are other sections of the Clayton bill which deal with the regulation and limitation of the issuance of injunctions. There are sections dealing with the subject of the regulation of contempt proceedings and providing for jury trials in alleged indirect contempts. The section dealing with injunctions, in which labor is primarily interested, is as follows:

"SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employee, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

"And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works or carries on business or happens to be for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working, or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute any strike benefits or other moneys or things of value; or from peacefully assembling at any place in a lawful manner and for lawful purposes, or from doing any act or thing which might lawfully be done in absence of such dispute by any party thereto, nor shall any of the acts specified in this paragraph be considered or held unlawful."

The sections dealing with the contempt proceedings and jury trials are as follows:

"SEC. 19. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 20. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and placed fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court or, upon demand of the accused, by a jury, in which latter event the court may impanel a jury from the jurors then in attendance or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor, and such trial shall conform as near as may be to the practice in criminal cases prosecuted by indictment or upon information.

"If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment either by fine or imprisonment, or both, in the discretion of the court. Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

"SEC. 21. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified as justice may require. Upon the granting of such writ of error execution of judgment shall be stayed and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court or by any justice or any judge of any district court of the United States or any court of the District of Columbia.

"SEC. 22. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto, as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 19 of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 23. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

It is confidently predicted, justified by the parliamentary situation, that the bill, with the above sections, will be passed by the House within the next few days.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BARKLEY. Mr. Chairman, for a number of years there has been much discussion and agitation in this country on the subject of trusts and monopolies. In 1890 Congress passed what is known as the Sherman antitrust law in an effort to curb, prevent, or restrain unlawful combinations in restraint of trade and insure lawful and wholesome competition in the commerce of the United States. Notwithstanding that law has been in force for 24 years, combinations, trusts, and monopolies have increased at a marvelous rate and have grown so enormous in size as almost to stagger with bewilderment and confusion the mind that undertakes to contemplate or unravel them. So successful have these great combinations of wealth been in the past, not only in their organization but also in their operation, that we are now compelled to buy much that we buy from a trust, and to sell to a trust much that we have to sell. This condition in the past has enabled the trust and monopoly to fix the price of the thing it bought from us and the thing it sold to us, the result being that the real producer and the real consumer have both been at the mercy of these great aggregations of wealth.

It would be interesting, if time permitted, to go somewhat into detail in undertaking to show the methods these corporations have adopted and practiced in stifling competition and controlling the markets of trade. But this is a familiar story. We have seen them force out of the market independent concerns by the most destructive and unfair methods and practices. We have seen them, by threats and by intimidation,

force a competitor to sell out to them or be financially ruined. We have seen them go into communities and in order to drive out a legitimate competitor reduce the price of their own article below the cost of production, and then, after the competitor had gone to the wall or sold out his business, the trust would raise the price of its own article far above the cost of production and a reasonable profit. Why could it do this? Because, after driving its competitor out of business, it had control of the field. Who paid in the end for this method of transacting business? The consumer, who was compelled to buy from them, because there was no one else left from whom to purchase.

This method of big business has been very largely practiced in the manufacturing industry. It was this method which enabled great corporations like the Standard Oil Co., the American Tobacco Co., the International Harvester Co., and many others of like size and purpose to obtain absolute control of the manufacture and sale of the commodities which they manufactured and sold.

This condition has been recognized by all parties in the United States for the past 15 or 20 years. Real competition in trade has been gradually growing less and less as monopoly has increased. Notwithstanding there has been an insistent and persistent demand from the people of every class and creed for relief from these burdensome conditions, no administration and no party has made any honest effort to correct these manifest evils until the Democratic Party came into power on March 4, 1913. It is true the Republican administration "prosecuted" a few corporations, and possibly "fined" the "corporation"; and it is true that they "dissolved" the Standard Oil Co. and the American Tobacco Co. But the small fines assessed against the corporation as such resulted in no real benefit to the people, and the dissolution of the Standard Oil Co. and the American Tobacco Co. was soon followed by a rise in the value of their shares of stock, which greatly enriched their owners without corresponding benefit to the people. No officer of either company was ever prosecuted.

In the campaign of 1912 the Democratic Party, at its convention at Baltimore, adopted the following plank in its platform, upon which it went before the people and asked their votes:

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including among others the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

We condemn the action of the Republican administration in compromising with the Standard Oil Co. and the Tobacco Trust and its failure to invoke the criminal provisions of the antitrust law against the officers of those corporations after the court had declared that from the undisputed facts in the record they had violated the criminal provisions of the law.

We regret that the Sherman antitrust law has received a judicial construction depriving it of much of its efficacy, and we favor the enactment of legislation which will restore to the statute the strength of which it has been deprived by such interpretation.

There is, Mr. Speaker, no evasion or equivocation about the language of that platform. There is nothing in it that the simplest mind can not understand. It demands the enforcement of the criminal laws against those who have violated the antitrust laws, and it demands the enactment of further laws prescribing the conditions upon which corporations may engage in trade between the States, among them being the prevention of holding companies, interlocking directors, unfair discrimination in price, and the control by any one corporation of so large a proportion of any given industry as practically to wipe out competition.

We, the Democratic Party and the Democratic administration, are now engaged in undertaking to enact a law in compliance with the pledges of that platform. We are seeking at this time to do what no other party has attempted to do, either for lack of courage or intelligence, namely, to write into the statute laws of the United States provisions designed to protect legitimate business against the unfair methods of monopoly and to protect the people themselves against the encroachments of those who in the past have sought to hinder and obstruct the freedom of competition in everything necessary to the prosperity and happiness of the people.

The provisions of the bill now under consideration are intended to prevent unfair discrimination, in so far as that end may be accomplished by legislation. Section 2 of the bill is designed to correct a widespread and common unfair trade practice whereby certain great corporations have heretofore endeavored to destroy competition and render unprofitable the business of competitors by selling their goods and merchandise at a lower price in the community of their rivals than at other places throughout the country, hoping that after the rival in business had been driven from the field the corporation would then enhance the price sufficiently to regain the loss made necessary in driving out the competitor. This section expressly forbids such practices when intended to injure or destroy the business of a competitor. This bill is not designed nor intended to prevent the lowering of prices in a legitimate way, for we are all interested in seeing that the cost of those things which are necessary to human progress and happiness shall not be above their reasonable value. But our experience in the past has demonstrated the fact that when a great corporation which has or is seeking a monopoly of the products of human labor goes into the field and by its unfair methods drives out a competitor in business, the people have usually been compelled to pay increased prices for the article controlled by such corporation after it has obtained a monopoly and driven out competition. It is an old axiom that competition is the life of trade, and the measure now before the House is designed to restore as far as possible healthy competition, so that the people may receive the benefit of the natural flow of trade in every legitimate channel.

The necessity for such legislation is shown by the fact that within the last few years 19 States of this Union have enacted laws forbidding such unfair discrimination and unfair practices, and it is important that Congress should supplement these State laws with similar legislation, as Congress alone has the power to regulate interstate commerce and the conditions upon which it may be engaged in.

In like manner, section 3 of the bill is intended to prevent owners or operators of mines, oil or gas wells, or other mineral products to refuse arbitrarily to sell his product, or any part of it, to a responsible purchaser. It is now recognized that the great mineral deposits which God has placed in the earth were placed there for the benefit of mankind. The coal, the oil, the gas, the copper, the gold and silver, the iron and steel, and other forms of mineral wealth are absolutely indispensable to human development and comfort in these modern days. In the past it has frequently happened that legitimate enterprises have been made to suffer because the coal barons and the oil kings refused to sell to them the necessary coal or the necessary oil with which to carry on their business. Such refusal has sometimes resulted in the closing of manufacturing plants and the throwing out of employment of men, simply because the owner of the coal or of the oil or other product of the mine practiced favoritism and discrimination as between purchasers, with the intention of building up one concern and destroying the other. Recognizing that these great natural sources of mineral wealth belong in truth to all the people and were created for all the people, it is sought in this measure to prevent their monopolization for the benefit of a few and to the injury of the great masses of those who depend upon them for the comforts and necessities of life.

Section 4 of the bill is designed to prevent what is known as "tying contracts." A great manufacturing company will go into a community and make a contract to let one certain person, firm, or corporation handle its products, provided such person, firm, or corporation will agree not to handle the goods of any other manufacturer who is a competitor. The very essence of such a transaction is monopoly. The local concern is not always nor usually to blame, because it desires to handle the particular articles in question, and perhaps it would like to handle similar articles manufactured by other concerns. But he frequently can not obtain the articles made by one manufacturer without agreeing not to handle the competitive articles made by another manufacturer, and so a monopoly of the given articles is created and an unlawful and unwholesome restraint of trade is the result, and the people are frequently unable to obtain the benefits of competition because the manufacturer ties the local merchant with a contract not to sell the products of a like or similar character made by a competing manufacturer. This bill will not prevent a manufacturer from selecting his customer or from making one person, firm, or corporation in any community his sole agent for the distribution of his products, because such a provision would be impracticable and perhaps work injury to legitimate business. But while it is true that he can designate a given concern to whom he will sell the products of his factory, he can not compel that concern to agree not to handle also the products of other manufacturers if he wants to do it. The merchant is not required to handle the products of others, unless he wants to do it. But this bill is intended to give the local merchant the right to handle as many competitive articles of the same kind as he may wish to handle, without tying his hands to one and only one concern under penalty of being refused or denied the right to handle such concern's products. The object and intention of this section of the bill is

to create and sustain competition in trade and give the people the right of choice as to what articles of merchandise they will use.

Suppose, for instance, a manufacturer of plows should go to a local merchant in some agricultural community and propose to allow the merchant to handle his particular brand of plows Or suppose the merchant himself should seek the handling of those plows in that community. The manufacturer might say, "I will let you handle my plows, provided you agree not to handle the plows made by any other concern." But the merchant would say in reply, "Many people in my community use other brands of plows, and I would like to handle other plows, so that I can furnish them to those who may desire them." The manufacturer, under the present law, would have the right to say, "You can not handle my plows unless you agree not to handle any other plow on the market." The result would be that the merchant would have to agree to that or be denied the right to handle the plows in question. In that event the merchant suffers because he is in the power of the trust or monopoly of a given brand of plows, and the community suffers because of a lack of competition and because of a frequent inability to secure the article they desire. All such conditions operate to restrain the freedom of trade and to build up monopoly at the expense of the people. It is hoped that this provision of the pending bill will go far to relieve trade of such handicaps and to restore and maintain the proper sort of competition.

Other sections of the bill forbid one corporation from acquiring the stock or shares of another corporation where the effect of such acquisition and control would be to eliminate or substantially lessen competition. This provision is intended to prevent what is commonly known as "holding companies." A "holding company" is a company that holds the stock of another company or companies, and one whose primary object is to "hold" the stock of other companies, which is a common and favorite method of promoting monopoly.

Under this method one corporation may buy up all the stock of several competing corporations engaged in commerce, or enough of their stock to give the "holding company" control of them all, and thereafter all the different corporations whose stock has been thus bought up are under the same control and are operated as though it were one concern. As thus defined, a "holding company" is created for the sole purpose of fostering monopoly and stifling competition, and is simply an incorporated likeness of the old-fashioned trust. For instance, a great corporation located in the city of New York or Chicago, under that system, might purchase the stock of 25 or 50 different smaller corporations in different States engaged in manufacturing similar and competitive products. These smaller corporations would remain separate corporations as organized under the laws of the different States, but their stock would be owned and they would be controlled by the corporation in New York or Chicago which owned their stock; and whereas previously they had all been competitors in the markets of the world, they would now, for all practical purposes, operate as parts of one great "holding" corporation, and competition would be at an end. This measure is designed to prevent that, where the primary purpose or the necessary consequence is to destroy or substantially lessen competition in trade.

Another great evil in the conduct of business, which is denounced by the Democratic platform, is what is commonly called "interlocking directors." By this term we mean the condition where the same men are directors and officers of many different corporations, some of them supposedly competitors, but all of them actuated by a community of interest which in many instances in the past has resulted in disaster. Recently one man in New York resigned from the board of directors of 50 different corporations. His published reason for so doing was that he recognized the changed condition of public sentiment regarding this manifest evil, and desired to adjust himself to the new ideals now permeating the business world. Whether this action was brought about by the dictates of conscience or the exercise of a prudent foresight we need not now stop to inquire.

The same conditions exist with reference to many others who have not yet adjusted themselves to the new conditions and demands of modern business thought, but who are as intricately "interlocked" in the boards of directors of naturally competing corporations as was he to whom I have just referred. There can be no real competition between companies engaged in commerce where the same persons control the policy of the different companies. It would be contrary to the weakness of human nature if they did not manipulate all of such companies for their selfish ends regardless of the interests of the public. Many examples could be called to mind where the directors of railroads, banks, coal companies, steamship companies, and various manufacturing concerns have been and are now so linked and "interlocked" that there is no competition in management and therefore none in operation. The whole design of the bill now under discussion in so far as it affects business is to secure and maintain fair and free competition among concerns and products naturally competitive, and therefore, in accordance with the declaration of our platform, it is provided in this measure that such conditions are to be remedied in so far as legislation may make this possible and practicable.

I desire, Mr. Chairman, to discuss briefly at this point the provisions of this bill which affect the rights of labor and of those who labor.

In searching the sacred pages of the Holy Scriptures for inspiration and guidance through this earthly journey we call life we find nowhere a command that we shall form a monopoly or that we shall become vastly rich or that we shall oppress our fellowman. Nowhere within the covers of that wonderful book are we admonished to "toil not, nor spin." But we are commanded to labor. Out of the voiceless silence of the ages past comes the command that "in the sweat of our faces" shall we eat bread. Thus in this, as in many other passages of the Bible, labor is not only sanctioned, but is sanctified; and we read each time with renewed consolation the invitation of the Son of man to "Come unto me, all ye that labor and are heavy laden, and I will give you rest."

Mr. Speaker, there is nothing more ennobling than honest toil, and none more noble than the honest toiler. In every age, in every clime, in every condition of human progress, he has borne more than his share of the burdens of the fight. In every battle for human liberty he has been in the forefront, willing to give his life, if necessary, that others might have life and have it more abundantly. When home and country have been in need of defense, he has harkened to the voice of duty and gone forth from those he loved to return no more. In religion, in patriotism, in service to humanity, in the drudging hardships of camp and quarry, of field and factory, the man who works and the woman who works have contributed more to the welfare of the world than all the hosts combined whose claim to our remembrance is bolstered chiefly through the "boasts of heraldry or the pomp of power." And some day, somewhere, I hope to see erected to those who toil and have toiled, or shall ever toil, a monument more beautiful, more imposing, and more lasting than any that has been erected in the name of cruel war or selfish greed. [Applause.]

Imbued deeply with the sentiments I have sought feebly to express, it is not strange that I place myself upon the side of those who favor the amendment to this bill, which exempts labor organizations and farmers' organizations from the operation of the antitrust law.

In support of that amendment, I submit that it was never the intention of Congress to apply the antitrust laws to such organizations, and if they had intended it such intention would have been wrong. The object in view in passing the antitrust laws was to strike at and destroy an evil, to curb monopoly, and punish combinations and conspiracies in restraint of trade. No one will contend, in the light of history, that labor unions or farmers' organizations are an evil; but, on the contrary, they have been greatly beneficial to those who labor in factory, field, or shop, and the blessings flowing therefrom have been shared by many indirectly who were not members of such organizations.

The offense denounced by the Sherman antitrust law is that of combining or conspiring in restraint of trade. Can it be said that an organization of men who work with their hands, who have organized for mutual help, for improving the conditions of labor, or advancing the wages which they receive is a combination or conspiracy in restraint of trade? Manifestly such an interpretation of the law would be an injustice to labor. Can it be said that an organization of farmers, who have organized for mutual protection and in order to insure an adequate price for the products which they have dug from the soil, is an illegal combination in restraint of trade? Such a construction of the law would be unjust and unwarranted. The great trusts and monopolies are offensive organizations. They are organized for profit and exploitation. Laboring men and farmers have been compelled to organize in self-defense in order to protect themselves against the rapacity of those whose acts are denounced by the Sherman antitrust law.

So that we may in truth say that this amendment exempting such organizations from the operation of the antitrust law gives to labor and to agriculture what it asks and is entitled to. It recognizes the difference between the man whose only asset is his power to work and the man who seeks to use labor and the products of labor for monopolistic purposes. It recognizes the self-evident truth that all real wealth in the final analysis is produced by those who toil, and that therefore the man who

toils and eats his bread in the sweat of his brow has a moral and legal right to cooperate with others of his fellow men in the same condition for the purpose of mutual help, protection, and improvement not only of the conditions of labor, but for the advancement of the compensation which he receives therefor.

This principle was recognized in the Democratic platforms of 1908 and 1912, when a plank was incorporated therein advocating the thing we are now about to write into this law. It is gratifying to be able at this time, when the Democratic Party is engaged in writing into the statutes new laws for the reestablishment of legitimate conditions of business, to place in the law a provision giving to labor a legal status. And as business under the provisions of this bill will be eventually liberated from the unwholesome conditions which have crippled and shackled it in the past, so will the man who with his hands makes business and prosperity possible receive that share of legal recognition to which he is entitled. And I hope and believe that the provision under discussion will be overwhelmingly adopted. [Applause.]

In conclusion, Mr. Speaker, I desire to call attention briefly to the great work which has been accomplished by the present Democratic administration in carrying out the platform pledges and enacting laws for the benefit of the whole people of the United States.

On the 4th day of March, 1913, the Democrats obtained control of every branch of the National Government. President Woodrow Wilson came into office as the first Democratic President in 16 years, having behind him the loyal support of a Democratic Senate and House of Representatives. He called Congress into extraordinary session on April 7, 1913, and since that date it has been in continuous session. During that length of time it has revised the tariff downward, in accordance with the mandate of the people and the doctrines of the Democratic Party. Our party has always advanced and fought for the principle that the taxing power of the Government should not be used except for the collection of public revenue sufficient to carry on the Government economically administered, and that it ought not to be exercised to enrich a few at the expense of the masses. The Democratic tariff of 1913 recognized that principle in every detail.

During the period since the Democratic Party came into power it has placed upon the statutes an income tax, which has been demanded by the American people for nearly a generation. Under this law the swollen wealth of the country will contribute its just proportion toward the expenses of Government, whereas heretofore it has enjoyed the benefits of this Government without contributing to its support in proportion to the benefits received and the ability to pay. The Democratic Party has for many years, in and out of season, without ceasing, and without shadow of turning, advocated the passage of an income-tax law, and we are now able to see the result of its efforts crystallized into a law which all men now recognize as just and equitable.

During that period the Democratic administration has passed a law reforming and reorganizing the banking and currency laws of the United States, a task which had been ignored by the Republican Party for 50 years. The passage of that law meant the death knell of the Money Trust; the impossibility of Nation-wide financial panics; makes it impossible for a few high financiers to concentrate the money of this country in Wall Street; extends a strong, helping hand to the farmer, while fully protecting the interests of the business man and the banker; provides for the establishment of foreign branches to take care of our foreign commerce; provides for the issuance of elastic currency, which will meet the demands of trade in every season and in every part of the United States; and takes from the hands of a few money manipulators the power to control the financial policy of this Government and places it with the people through their constituted authorities, where it ought to be. When this new system has been fully organized and put in operation it is the belief of all classes of our people that it will prove itself to be one of the greatest pieces of constructive legislation ever enacted by Congress.

In addition to these things, the administration of President Wilson has been instrumental in eliminating from Washington a lobby which in former times has exercised a baneful influence upon legislation. It has secured the repeal of that provision of the Panama Canal act which gave to a shipping monopoly a subsidy of nearly $2,000,000 per annum out of the pockets of the people. It has caused to be signed treaties with more than half the nations of the world providing for the arbitration of international disputes, thus hastening the day when peace may dwell among the peoples of the world and the staggering expenditures for war and its horrors may be greatly reduced.

It has passed the industrial employees' arbitration act, providing for mediation, conciliation, and arbitration in controversies between employers and employees.

It has developed and extended the Parcel Post System to a high degree of perfection, resulting in a reduction of rates and an increase in the size of packages, making home life for the city man and for the farmer easier and cheaper.

It has inaugurated in the Department of Agriculture a system of markets whereby scientific and modern business methods will be applied toward the elimination of waste in transporting and distributing farm products.

It has passed the Lever bill providing for farm-extension work, which is designed to increase greatly the productiveness of American farms and thereby add to the general wealth of the Nation. It is intended to carry directly to the farm all the scientific discoveries of the Department of Agriculture and the State agricultural colleges. When it is remembered that during last year the farmers of the United States created nine billions of wealth, the importance of the passage of such a bill can be easily understood.

It has passed through the House of Representatives and hopes to pass through the Senate a bill granting Government aid to the different States and their subdivisions for the construction and maintenance of good roads, thus making more easy the transportation of farm products and adding to the prosperity and happiness of the people.

Many other important matters of legislation and administration for the benefit of the people have been inaugurated, to which I can not call attention for lack of time. And now Congress is engaged in the passage of these bills to supplement the antitrust laws, to prevent overcapitalization of railroads engaged in interstate commerce, to curb and restrain and, as far as possible, destroy monopoly and restore honest and practical competition in trade. And in addition to this it has under course of preparation bills for the establishment of a practical and effective system of rural credits, which will afford to those engaged in farming facilities for obtaining credit on long time and at lower rates of interest than are at present available, which we hope to enact into law in the near future, and which we hope will result in permanent good to those who need credit, that they may establish homes and finance their agricultural enterprises with greater chances of success than is possible under conditions as they exist at present. [Applause.]

Such a record, Mr. Speaker, is sufficient to cause any party or any administration to feel that its labors have not been in vain. Such a record is sufficient to demonstrate to the country that the Democratic Party knows how to serve the people, and that it has the courage and the intelligence to go forward instead of backward; that it has the patience to tire not in well-doing; and that it has the foresight to strive for the accomplishment of those things which shall in the end make for industrial peace at home and international peace abroad, and set a new mark in the advancement of the ages which shall reflect honor upon our efforts and glory upon our flag. [Applause.]

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Ohio [Mr. CROSSER].

The CHAIRMAN. The gentleman from Ohio [Mr. CROSSER] is recognized.

Mr. CROSSER. Mr. Chairman, there is no economic problem which engages the attention of the people so much as the trust or monopoly evil. The iron hand of monopoly is felt by every person in the United States, and indeed by the people throughout the world. It is well that the public mind is aroused, because failure to check the growth of monopolies and failure to prevent the ravages of those already in existence will result in industrial slavery.

What is a monopoly and what is its source of power to oppress? It is created by welding together all of the industries which produce any article and placing this combination under one control. There is then no one to offer at a lower price articles similar to those produced by the monopoly. In other words there is no competition. The monopolist can then demand and receive all the public can and will pay rather than be without the article in question. The monopoly being the only employer of the kind of labor required in the production of the article which it alone produces, can and does say what such labor will be paid as wages. The customer must pay what the monopoly or trust demands for its product, or do without, as no other can offer the same for sale. The workman skilled only in making the thing sold by the monopoly must accept the wages it offers or do without and try to learn some other business.

It does not require much thought to enable any man to understand the danger to free men from the tryannical power which monopolies can wield. Every earnest man who thinks for a moment of others agrees that something should be done to limit

the power if not destroy monopolies. As a remedy we have now before this House a measure called "A bill to supplement existing laws against unlawful restraints and monopolies." I intend to vote for this bill, for while I do not believe that we shall get complete relief from it, I am ready and anxious to support any measure which will do something toward breaking the power of monopoly. But will this proposed law accomplish the desired result? I am anxious that it should strip monopoly of its power, and yet I can only feel that it will do much better in the way of regulation than the present law.

I believe that this bill is the most perfect development thus far of the plan to solve the problem of monopoly by control and regulation. But the job of controlling and regulating a monopoly is much the same as if you were to give a man your farm and then try to order when he should plow, where he should sow, at what price he should sell his crops, and to say that he should not talk to his neighboring farmer across the fence about the price of what they have to sell. You lost the right and power to control effectively when you gave away the farm, and so the people of the country are unable to control and regulate monopolies because they have given them the natural resources of the country. It makes little difference whether the grant was originally made to one person or to a number of persons. The true remedy and, in fact, the only real cure for the evils of monopoly is to restore to the public as far as possible these natural resources. If a tax sufficient to absorb economic rent were levied upon the real value of oil land, coal land, ore land, and other sources of raw material, we would find the strangle hold of monopoly soon loosened. No man or men could then afford to withhold from use the natural resources which they have gotten into their possession. In order to pay such a tax they would be compelled to make use of the land or resources under their control; and if they should do this, they would turn out their products in such quantities as to make it necessary to sell at a reasonable price in order to dispose of their output. The customers would then be able to buy the products more freely. Labor would receive higher wages, because of the increased demand for labor resulting from the using of resources heretofore held out of use by monopoly. Of course increased demand for anything, including labor, means that more must be paid to get it. Why have we not applied this simple remedy? Why do we give the earth to a few and then try to regulate them?

The explanation, it seems to me, is that men's minds usually accept, as an explanation for any difficulty, the cause which is most apparent and nearest to the trouble. So when we see a few men getting immense fortunes in a very short time, we begin to blame the men and try to regulate their actions. Restore to the people their rights in the natural resources of the country and the trust question will solve itself. This, as I have already suggested, can be done by taxation. But, answer some, this would not be fair to those who have paid for these privileges in the natural resources. Let me call your attention to the fact that the taxing of such resources at a rate about equal to its natural rent would simply prevent the monopoly from playing the dog-in-the-manger game of withholding the natural resources from use, but would still leave them the title and possession and a reasonable profit if they will but use them. The profit which has come to monopoly merely from the privilege of controlling the natural resources would of course be much reduced under the plan which I have suggested, but you who support the pending bill can not offer that as an objection to the plan. The very purpose of the bill before this House is to prevent the trusts or monopolies from getting an unfair profit. The plan of the bill reported by the committee is to leave the trusts in possession of their special privileges in the natural resources, but to tell them how to sell their product and to whom they must sell it, so that they will be fairer to the people. But if by taxation we compel the holders of the natural resources to use them or to let others use them, the natural law of supply and demand will reduce prices and raise wages, and this would mean prosperity for all.

There has been a great deal said during the debate on this bill about the proposal that labor unions shall not be subject to the terms of the antitrust law. We have observed the tearful anxiety of those who shudder at the very thought of class legislation when it appears to favor the cause of labor. Keeping in mind the purpose of this bill, does the so-called exception in favor of labor constitute class legislation? I claim that it does not.

The evil that the bill is intended to correct is the monopoly of the natural resources—to prevent a few persons from getting control of such portions of the earth as contain the raw material or means of production of the necessities and comforts of life. We have a natural and moral right to prevent a monopoly of the earth, the storehouse provided by God for the human family. We have a right and duty to destroy special privilege in the earth which was provided by the Creator, not for one or a few but for all His people. To permit anything else, to permit one or a few to own and absolutely control the earth, is to put the rest of mankind at the mercy of these few, because they can only live and labor on the terms made by the few.

But no man has any natural or moral right of ownership in another man's body or his power to labor, and therefore no man has any right to say that another shall or shall not work or to say that he shall not consult with his fellows about working or refusing to work or in regard to the terms of employment so long as the conference is free from violence. The same right as to his labor, whether manual or mental, must be conceded to the individual employer or if a corporation be the employer, then the officials of such corporation have the right to consult with one another or with like officials of some or all other corporations in regard to the terms upon which they will do their work. This, however, is an entirely different thing from permitting a monopoly of the resources of the earth.

It is the old, old story of the struggle of the millions of human beings for the fruits of their toil, on the one hand, and by the holders of special privileges for the fruits of other men's toil on the other hand. And yet, all this is permitted in the name of justice. Millions of men and women toil wearily from day to day and drag out only a miserable existence. Countless children are without food enough to fully nourish them, and know not how to laugh. Mr. Chairman, we can not much longer tolerate such conditions. We must soon stop trying the time-worn plan of permitting a few men to monopolize the earth, and then trying to compel them by law to be kind enough to give others their just share of its fruits. We must go to the root of the evil. We must remove the cause by abolishing special privilege itself.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Missouri [Mr. HAMLIN].

The CHAIRMAN. The gentleman from Missouri [Mr. HAMLIN] is recognized.

Mr. HAMLIN. Mr. Chairman, I can not hope to say much within the time allotted me. I will say, however, that I am heartily in favor of the amendment offered by the chairman of the committee to section 7 of the bill. I do not believe that it would be right to place labor organizations, farmers' organizations, and fraternal organizations in the same category with organizations formed for the express and sole purpose of making money. One organizes for the purpose of uplifting humanity, the other for the purpose of exploiting humanity.

The present method of business is to put the brawn and muscles of human beings in one end of the scale and dollars in the other end and weigh it out, just as the grocer weighs out his sugar to a customer. This is revolting to any man who loves his fellow man. Involved on one side of the balance are the cold, unsympathetic dollars; on the other side are the lives, the happiness, and existence of human beings.

Surely the law ought to make a distinction between the two. Human happiness and human welfare ought not to be put on the auction block and knocked off to the highest bidder as a chattel may be. The only reason why trusts and combinations are declared illegal is because they are organized and operated for the express purpose of the more effectively exploiting the people by taking advantage of their necessities and controlling the price of these necessities to the consumers, as well as the purchase price which they have to pay for the raw material. They do this by consolidating or controlling all business in their line and thereby shutting out competition. Combinations of capital seek to control both the selling and purchasing price of all articles of necessity.

Labor seeks only to protect the selling price of one article, to wit, his brawn and muscle. This amendment protects the labor organizations, farmers' organizations, and fraternal organizations from the operation of the Sherman antitrust law, and in that the Democratic Party fulfills another pledge made in its platform.

I am truly glad to see our Republican friends lining up for this amendment; true some of us remember that for 16 long years of Republican rule they never found it convenient to protect the laborers of this country from the effects of the Sherman antitrust law, still we welcome them over to our standard and say we will gladly accept your votes even though you had to be forced to do it by a Democratic Congress.

I think that every Member here recognizes that one of the big questions before us it to deal fairly and right with labor and capital. For a long time I have felt that capital is largely responsible for the struggle that is on between the employer and the employee. Capital has been too domineering and selfish. I once heard the president of a large operating coal company,

in dealing with the demand of their employees for better wages, say, "What right have these d—n fellows to make demands on us and attempt to tell us how we shall run our business? We have thousands invested and they haven't a penny." I said to him, "That is where you are radically wrong. These laborers have infinitely more invested in the business than you have. You have only a portion of your money invested and these laborers have their very existence and the existence of their wives and children invested, and who can measure the love of a parent for his child, or who will attempt to do so in cold dollars and cents?" Mr. Chairman, let us not deal with the comfort and happiness of human beings as we deal with steel rails, oil, and other commodities.

I repeat what I said in the beginning, that labor organizations and farmers' organizations ought not to be placed in the same category with organizations formed for the express purpose of making money. I hope this amendment will be adopted.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. CASEY].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CASEY] is recognized.

Mr. CASEY. Mr. Chairman, it was with considerable interest I took up the study of this very important measure. The more I delved into it the more and more I became impressed with the absolute need of an amendment such as has been offered by the gentleman from North Carolina [Mr. WEBB]. I realize and appreciate the importance of this bill, because I believe it is one of the most important that has or will come before this House for consideration.

ORIGINAL CLAUSE UNSATISFACTORY.

When it was reported by the Judiciary Committee I, as well as a number of my colleagues, went over it with careful deliberation, section by section, and when we reached section 7 it was apparent that it did not and could not meet expectations.

We asked the committee to change the phraseology so as to give labor organizations and farmers' organizations and beneficial societies the recognition promised in the Democratic platform. After some consideration the committee agreed to do so.

I desire to say to the Members who are hesitating about voting for the amendment that it is my sincere belief that the Webb amendment gives labor, gives the farmers, and gives the beneficial organizations the relief they are seeking. And I want to add that by following the recommendations of the Judiciary Committee we are doing that which the members of the great American Federation of Labor, what the members of the great Brotherhoods of Railroad Trainmen, the Railroad Conductors, the Railroad Firemen, the Railroad Engineers, and the farmers' organizations, that are directly and vitally interested in this legislation, desire we should do.

DISTINCT LINE DRAWN.

In consideration of their wishes, in consideration of the great moral issue involved, and in consideration of the world desire to draw the line between labor and its product, and in consideration of the desire to give the farmer as well as the laborer a greater scope, so that they may develop, so that they may live with a greater degree of comfort, so that they may prosper; and when these great forces are content the leaven of a greater and better mankind will dominate in this country; and I ask you, in consideration of all these things, to adopt the amendment offered by the gentleman from North Carolina [Mr. WEBB], chairman of the Judiciary Committee.

Mr. Chairman, wherever the working people have made progress some form of organization has been the agency that has transformed individual impotency into collective strength—fraternities, lodges, merchant guilds, craft guilds have been helpful; but the labor unions—trades-unions—have been the most potent factors in the forward movement.

HIGHER STANDARD OF LIFE.

The demand for higher wages represents the conviction that a constantly greater share of increased social wealth should go to those who create it. The progress of humanity results from the elimination of poverty. Poverty means degrading environment and influence that result in intellectual and moral degeneration. Permanent amelioration of the human lot must have as its basis material resources. The next step is to distribute these products so that the greatest number may fairly benefit thereby. As an element in the forces determining distribution, the trade-union has been most potent. A comparison of conditions prevailing among the unorganized with those that have employed collective bargaining reveals unmistakable proofs of the beneficent results due to trade-unionism. Higher wages mean better homes, better clothing, better food, better bodies and minds, recreation, a higher standard of life.

The aim for a higher standard of life is the incentive for the demand for a shorter workday. The verdicts of modern scientists are confirming the fundamental importance of this demand which the trade-union has so long been pressing. These scientists are warning us against the danger to the race from the continuous industrial strain and concentration of energy in modern industry. Commerce and industry can be allowed to exploit the leisure of the workers only at the expense of national well-being. The shorter workday means increased efficiency of the worker in the shop, better, longer, and happier living, and development of the higher emotions and feelings. It increases the productive period of the worker, lengthens his life, and enables him longer to provide for those dependent upon him, that the children may have an opportunity to taste of the pleasures of child life before assuming the burdens of the human "struggle for existence."

CONSERVE HUMAN RESOURCES.

This more efficient, more human worker demands better working conditions, the aim being to conserve human resources. Much has been done to let pure air and sunshine into working places, to exclude conditions breeding organisms injurious to life, but ever-increasing knowledge and the widening of our conception forbid us to stop or stay in the crusade for human welfare. Among all the organizations on the American continent working upon the various phases of this great problem, in my opinion, the great American Federation of Labor is the leader, and has often been the pioneer blazing the way.

These three demands of organized labor are comprehended in this larger and ultimate ideal—to enrich, enlarge, and magnify humanity. The influence and the potency of the American labor movement are so well appreciated by the thinkers and leaders in our Nation's affairs that almost every considerable movement for humanitarian, economic, or political reform has endeavored to enlist their approval and support. Men of labor play an honorable and important part in the affairs of this great Nation. They are daily helping to determine its destiny.

For years the laboring people have contended that the Sherman antitrust law was never intended to apply and should not have been applied to the voluntary organizations of the working people. By reason of the decision of the Supreme Court in the Hatters' case, and of several courts in other cases, that law was made to apply to organizations of workers. It is unnecessary at this time to recount the various phases and the developments of the efforts to secure remedial legislation which the working people of the country have so long and so justly demanded.

THE SEVENTH SECTION.

In this bill, dealing with supplementary legislation on the Sherman antitrust law, is incorporated the following section as amended:

"Section 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders or associations instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations, orders, or associations, or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

There are other sections of this bill which deal with the regulation and limitation of the issuance of injunctions. There are sections dealing with the subject of the regulation of contempt proceedings and providing for jury trials in alleged indirect contempts. The section dealing with injunctions as amended, in which labor is primarily interested, is as follows:

"SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employee, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

THE RESTRAINING HAND.

"And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do, or from attending at or near a house or place where any

person resides or works or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to or withholding from any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peacefully assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in absence of such dispute by any party thereto, nor shall any of the acts specified in this paragraph be considered or held unlawful.

CONTEMPT CASES; JURY TRIALS.

"SEC. 19. That any person who shall willfully disobey any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia by doing any act or thing therein, or thereby forbidden to be done by him, if the act or thing so done by him be of such character as to constitute also a criminal offense under any statute of the United States or at common law shall be proceeded against for his said contempt as hereinafter provided.

"SEC. 20. That whenever it shall be made to appear to any district court or judge thereof or to any judge therein sitting, by the return of a proper officer on lawful process, or upon the affidavit of some credible person, or by information filed by any district attorney, that there is reasonable ground to believe that any person has been guilty of such contempt, the court or judge thereof, or any judge therein sitting, may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor; which rule, together with a copy of the affidavit or information, shall be served upon the person charged with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court: *Provided, however*, That if the accused, being a natural person, fail or refuse to make return to the rule to show cause, an attachment may issue against his person to compel an answer, and in case of his continued failure or refusal, or if for any reason it be impracticable to dispose of the matter on the return day, he may be required to give reasonable bail for his attendance at the trial and his submission to the final judgment of the court. Where the accused person is a body corporate, an attachment for the sequestration of its property may be issued upon like refusal or failure to answer.

"In all cases within the purview of this act such trial may be by the court or, upon demand of the accused, by a jury, in which latter event the court may impanel a jury from the jurors then in attendance, or the court or the judge thereof in chambers may cause a sufficient number of jurors to be selected and summoned, as provided by law, to attend at the time and place of trial, at which time a jury shall be selected and impaneled as upon a trial for misdemeanor; and such trial shall conform, as near as may be, to the practice in criminal cases prosecuted by indictment or upon information.

THE PUNISHMENT PRESCRIBED.

"SEC. 21. That the evidence taken upon the trial of any person so accused may be preserved by bill of exceptions, and any judgment of conviction may be reviewed upon writ of error in all respects as now provided by law in criminal cases, and may be affirmed, reversed, or modified, as justice may require. Upon the granting of such writ of error, execution of judgment shall be stayed and the accused, if thereby sentenced to imprisonment, shall be admitted to bail in such reasonable sum as may be required by the court, or by any justice, or any judge of any district court of the United States or any court of the District of Columbia.

"SEC. 22. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of or on behalf of the United States, but the same and all other cases of contempt not specifically embraced within section 19 of this act may be punished in conformity to the usages at law and in equity now prevailing.

"SEC. 23. That no proceeding for contempt shall be instituted against any person unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act or acts; but nothing herein contained shall affect any proceedings in contempt pending at the time of the passage of this act."

SOCIETY AND JUSTICE.

The foregoing paragraphs, as amended by the Judiciary Committee, indicate plainly that justice is the purpose toward which society is groping slowly—uncertainly yet ultimately. The ideal may change and shift, but justice ever remains the goal. The law of the land embodies concepts of rights that must be granted individuals to secure them freedom of self-development and action. Justice exists when these rights are accorded to all individuals.

To the courts of our country belongs the duty of making justice a forceful reality in the lives of men. The courts are the guardians of the rights and ideals of the Nation. They are the agencies by which justice is brought into the lives of people. If they do justice, they create respect for governmental authority. If they deny justice, they create contempt for law and rebellion against governmental authority.

American courts have an unusually grave responsibility, for their power has become practically unlimited. Their power to interpret law and to pass upon its constitutionality makes them superior to the legislatures. Judges are the least responsible of all our govenmental agents.

An independent judiciary is necessary for purity of justice. Yet this very independence constitutes a menace, for judges are human, and may allow practices and concepts to become established which pervert justice. Such perversions of justice have been the reason for all the great legal reforms. Such perversions of equity courts now demand reform.

POWER OF EQUITY COURTS.

Equity courts were established in England to infuse into legalism a morality which was precluded by the strict letter of the law. Practically all equity law has resulted from judicial legislation. The judge makes the law, determines whether or not his law is violated, and determines the penalty for any violations of his law. Therefore equity proceedings reflect the personal attitude of mind, convictions, and animus of the individual judge.

The power built up by equity courts in the United States is unlimited. Like all arbitrary power, it has been abused. The particular class of abuses that has caused the greatest injustice and has aroused most bitter discontent is the use of the injunctive process in industrial disputes to regulate personal relations and to assume the functions of the law courts.

The writ of injunction was intended to protect property against injury from which the law afforded no protection. Under the influences of judges who had no personal knowledge of industrial affairs, no sympathy with workers in industry, and no understanding of the difference between property rights and personal rights, injunctions have been issued for the purposes which transform the agencies of justice into engines of injustice and oppression.

BURDENS OF INDUSTRY.

Those who bear the burdens of industry and the brunt of whatever injustice prevails have for years, in protest, called attention to grievous wrongs that have been inflicted upon them by the courts.

The effort to secure decent working conditions, a fair wage, and reasonable hours of work has involved the workers in a struggle with all the forces of greed and intrenched power, whose aim is to deny the growing economic and social demands of the workers.

The struggle has not infrequently degenerated into a conscienceless war to hold the workers in subordination and in the domination of every political agent to accomplish this purpose. Judges have been induced to serve this purpose—some consciously and some unconsciously. Injunctions have been issued that deny workers rights guaranteed them by constitutional and statutory laws; that deny workers freedom of speech, press, and normal action.

Judges have sentenced workers for doing that which they have a lawful right to do; have sentenced them for violations of the injunctions when the injunctions themselves were issued in direct contravention of specific inhibitions of law. Let us present the basic principles which determine the jurisdiction of equity courts and limit their powers.

INJUNCTIONS AND THEIR IMPORT.

The writ of injunction should be exercised exclusively for the protection of property and property rights.

To secure the aid of equity courts by the injunction process the petitioner must have no other remedy at law.

He who seeks equity must come into court with clean hands.

The injunction writ must never be used to regulate personal relations or to curtail personal rights.

Equity power—injunctions—must never be used in an effort to punish crime. This is the function of the law courts.

The equity courts must not be used as a means to set aside trial by jury.

In all America there is not a man learned in the law who will dispute that the principles just stated are the fundamental bases for equity procedure in the issuance of injunctions.

DEMANDS FOR JUSTICE.

Mr. Chairman, though courts have jailed workers, they have not silenced indignant protest or stifled or jailed love and demand for justice. Though they have jailed workers for contempt of unwarranted judicial orders, they have not been able to jail their contempt for arbitrary abuse and usurpation of authority. With defiant challenge of wrong, the workers demand that the courts of justice be restored to their rightful purposes; that they be made the courts of all the people, and not the courts of a privileged class—the employing class. There are those who believe that American workers exaggerate the need for legislation to prevent abuses of the injunctive process. There are others who wish to create that impression in order to retain the special privileges and advantages these abuses afford them. All the forces of prejudice and greed are lined up to prevent legislation which shall free the workers from restrictions upon normal efforts to protect and further their own material interests.

GOVERNMENT BY INJUNCTION.

What is "government by injunction" or, in other words, the misuse of the equity power? It is the modern use of the writ of injunction, especially in labor disputes, which is revolutionary and destructive of popular government.

Our Government was designed to be a government by law, said law to be enacted by the legislative branch, construed by the judiciary, and administered by the executive.

An injunction is "an extraordinary writ issued out of equity enjoining a threatened injury to property or property rights where there is not a plain, adequate, and complete remedy at law."

The definition of equity is: "The application of right and justice to the legal adjustment of differences where the law, by reason of its universality is deficient" or "that system of jurisprudence which comprehends every matter of law for which the common law provides no remedy * * * springing originally from the royal prerogative, moderating the harshness of the common law according to good conscience." In other words, it is the exercise of power according to the judgment and conscience of one man.

PROPERTY RIGHTS.

It was for this reason that in Great Britain, whence the United States derives its system of equity, as well as of law, the equity power was limited to the protection of property or property rights, and in such cases only where there was no remedy at law; the words adequate and complete have been added here.

When the courts of equity take jurisdiction over and issue injunctions in labor disputes they do so to protect business, which, under late rulings by several courts, is held to be property. These rulings are disputed and condemned by other courts, which hold that relations between employers and employees—between buyer and seller—are personal relations, and as such, if regulated at all, are regulated by statute or common law only. If the latter contention be right, and of this we believe there can be no question, the ruling that makes business property or the right to carry on or continue in business a property right is revolutionary and must lead to a complete change, not only in our industrial, but in our political life. If the court of equity be permitted to regulate personal relations, it will gradually draw to itself all legislative power. If it be permitted to set aside or to enforce law, it will ultimately arrogate to itself jurisdiction now held by the law courts and abolish trial by jury.

LAW AND EQUITY.

The Constitution confers equity power upon the courts by stating that they shall have jurisdiction in law and in equity in the same way that it makes it their duty to issue the writ of habeas corpus and in substantially the same way as it provides for trial by jury. Equity power came to us as it existed in England at the time of the adoption of our Constitution, and it was so limited and defined by English authorities that our courts could not obtain jurisdiction in labor disputes except by the adoption of a ruling that business is property.

If business be property in the case of a strike or boycott, and can therefore be protected by the equity court against diminution of its usual income, caused by a strike or boycott conducted by the working people, then it necessarily must be property at other times and therefore entitled to be protected against loss of income caused by competition from other manufacturers or business men. Business and the income from business would become territorial and would be in the same position as land and the income from land. The result would be to make all competition in trade unlawful; it would prevent anyone from engaging in trade or manufacture unless he comply with the whims and fancies of those who have their trade or means of production already established.

No one could enter into business except through inheritance, bequest, or sale.

DEFINITION OF PROPERTY.

In order to show the fallacy of this new definition of property we here state the accepted legal definitions of property, business, and labor.

Definition of property: Property means the dominion of indefinite right of user and disposition which one lawfully exercises over particular things or subjects and generally to the exclusion of all others. Property is ownership, the exclusive right of any person freely to use, enjoy, and dispose of any determinate object, whether real or personal. (English and American Encyclopedia of Law.)

Property is the exclusive right of possessing, enjoying, and disposing of a thing. (Century Dictionary.)

A right imparting to the owner a power of indefinite user, capable of being transmitted to universal successors by way of descent, and imparting to the owner the power of disposition from himself and his successors. (Austin, Jurisprudence.)

SOLE DESPOTIC DOMINION.

The sole and despotic dominion which one claims and exercises over the external things of the world in total exclusion of the right of any other individual in the world. (Blackstone.)

It will be seen that property is the products of nature or of labor, and the essential element is that it may be disposed of by sale, be given away, or in any other way transferred to another.

There is no distinction in law between property and property rights.

From these definitions it is plain that labor power or patronage can not be property, but aside from this we have the thirteenth amendment to the Constitution prohibiting slavery and involuntary servitude.

LABOR AND PROPERTY.

Labor power can not be property, because it can not be separated from the laborer. It is personal. It grows with health, diminishes in sickness, and ceases at death. It is an attribute of life.

The ruling of certain courts makes of the laborer a serf, of patronage an evidence of servitude, by assuming that one may have a property right in the labor or patronage of another.

Definition of business: That which occupies the time, attention, and labor of men for the purpose of livelihood or profit; that which occupies the time, attention, and labor of man for the purpose of profit and improvement. (American and English Encycl. of Law.)

That which busies or that which occupies the time, attention, or labor of one as his principal concern, whether for a longer or shorter time. (Webster's Dictionary.)

Definition of labor: Physical or mental effort, particularly for some useful or desired end. Exertion of the powers for some end other than recreation or sport. (Century Dictionary.)

It will be seen from the definitions that while there is a fundamental difference between property and business there is none at all between business and labor, so that if business be property, so is labor, and if the earning power of business can be protected by equity power through injunction, so can the earning power of labor; in other words, the laborer may obtain an injunction against a reduction of his wages or against a discharge, which would stop the wages entirely.

If this new definition of property, by including therein business and labor, be accepted, then the judge sitting in equity becomes the irresponsible master of all men who do business or who labor.

DISCRETIONARY GOVERNMENT.

We contend that equity power and jurisdiction—discretionary government by the judiciary—for well-defined purposes and within specific limitations granted to the courts by the Constitution, has been so extended that it is invading the field of government by law and endangering constitutional liberty; that is, the personal liberty of the individual citizen.

As government by equity—personal government—advances, republican government—government by law—recedes.

We have escaped from the despotic government of the king. We realized that, after all, he was but a man. Are we going to permit the growing up of a despotic government by the judges? Are not they also men?

PRESERVATION OF LIBERTY.

The despotism of one can, in this sense, be no better than the despotism of another. If we are to preserve "government of the people, by the people, and for the people," any usurpation by the judiciary must be as sternly resisted as usurpation by the executive.

What labor is now seeking is the assistance of all liberty-loving men in restoring the common-law definitions of property, and in restricting the jurisdiction of the equity courts in that connection to what it was at the time of the adoption of the Constitution.

To those who ask proof of the justice of labor's demands for correction of abuses of the injunctive process there is no better proof than can be found in the injunctions of Judge Dayton, of the Federal District Court for the Northern District of West Virginia. No injunctions have been more persistent, arbitrary, flagrant abuses of judicial power than those issued by that court.

CONDITIONS IN WEST VIRGINIA.

Conditions in that district are conducive to such abuses—West Virginia is a corporation-ridden State. The coal companies own vast tracts of territory over which they exercise practically absolute control. Their great industrial power has created the false impression that profits for the companies are tantamount to prosperity for the State. The companies have been allowed to interpret what constitutes prosperity and how it shall be maintained. Company managers are held responsible for profits. Naturally they condemn anything that decreases profits or "interferes" with business. That human rights may conflict with property rights is to them of no consequence, for they think property rights only concern profits. As what could not be accomplished in "other ways" was done through injunctions—the coal fields of West Virginia have been an injunction-governed district.

WORKERS DENIED CERTAIN RIGHTS.

The injunction rule that Judge Jackson inaugurated Judge Dayton has maintained with great "efficiency." The purpose of that rule is to deny free workers the right to organize in order to better their working conditions. Every agent of Government and force has been used to maintain the mines nonunion—to maintain the same "freedom" that the Colorado Fuel & Iron Co. is trying to force upon the miners of Colorado. The serious injustice that has resulted is most conclusively demonstrated by the injunctions issued by Judge Dayton against the coal miners during the strike of 1912–13.

The West Virginia-Pittsburgh Coal Co., incorporated under the laws of West Virginia, and operating large coal mines in the northern Panhandle district of West Virginia, petitioned for and obtained from Judge Dayton, on September 29, 1913, a temporary restraining order. The restraining order forbade the officers of the United Mine Workers, "their committees, agents, servants, confederates, and associates, and all persons who now are, or hereafter may be, members of said United Mine Workers of America, and all persons combining and conspiring with the said designated persons, and all other persons whomsoever, and each and every one of them" from organizing the company's mines, from "conspiring" to inaugurate a strike against the company, or from doing anything to aid in any strike against the company. The restraining order with slight modifications was made a preliminary injunction December 2, 1913.

OUTRAGE AGAINST RIGHTS.

Mr. Chairman, the injunction is so preposterous, such an outrage against the rights of the workers, such an arrogant usurpation of power, that the specific inhibitions are given in full. In reading the injunction and considering the things which the miners are forbidden to do, the extensive land holdings of the company should be held in mind. The miners lived in the company's houses, built upon the company's property. It was impossible for them to move outside their own dwellings without "trespassing" upon the company's land.

The wording of the injunction is also significant. The words are so chosen as to convey the idea that normal, lawful activities are "conspiracies." The injunction assumes the lawful right of the company to whatever relations with its employees will produce greatest profits, and to regard those relations as part of the right to do business. The "right to continue service" from employees is the basis for several prohibitions. Judge Dayton assumed that a strike is unlawful, that labor organizations and their purposes are illegal.

SPECIFIC PROHIBITIONS IN JUDGE DAYTON'S INJUNCTION.

The officers and the present and future members of the United Mine Workers, their associates, and all other persons are enjoined and restrained:

"1. From interfering and from combining, conspiring, or attempting to interfere with employees of the plaintiff for the purpose of unionizing plaintiff's mine, without plaintiff's permission and consent, and in aid of such purpose knowingly and willfully bringing about in any manner the breaking by plaintiff's employees of contracts of service known to them at the time to exist which plaintiff now has with his employees, and from knowingly and willfully bringing about in any manner the breaking by plaintiff's employees of contracts of service which may hereafter be entered into by persons with plaintiff and be known to them, while the relationship of the employer and employee as to such employee so brought to break his contract exists, and especially from knowingly and willfully enticing plaintiff's employees, present or future, knowing such relationship, while the relationship of the employer and employee, as to such employee enticed, exists, to leave plaintiff's service, giving or assigning directly or indirectly as a reason for any such act so brought about, or enticing and leaving the plaintiff's service, that plaintiff does not recognize the United Mine Workers of America, or that plaintiff runs a nonunion mine, or that the interests of the United Mine Workers of America require that plaintiff shall not be permitted to run a nonunion mine, or that the interests of the union will be best promoted thereby.

"2. From interfering and combining, conspiring, or attempting to interfere with the employees of plaintiff so as knowingly and willfully to bring about in any manner the breaking by the plaintiff's employees of contracts of service known to them at the time to exist, which plaintiff has with its employees, and from knowingly and willfully bringing about in any manner the breaking by plaintiff's employees of contracts of service which may hereafter be entered into by persons with plaintiff, and be known to them, while the relationship of employer and employee, as to such employee so brought to break his contract exists, and especially from knowingly and willfully enticing plaintiff's employees, present or future, knowing such relationship of employer and employee as to such employee so enticed exists, to leave plaintiff's service without plaintiff's consent, against plaintiff's will, and to plaintiff's injury.

SOME STARTLING SPECIFICATIONS.

"3. From interfering with, hindering, or obstructing the business of plaintiff, or its agents, servants, or employees, in the discharge of their duties as such, at and about plaintiff's mines or elsewhere, by trespassing on or entering upon the grounds and premises of the plaintiff, or within its mines for the purpose of interfering therewith, or hindering or obstructing its business in any manner whatsoever, or with the purpose of compelling or inducing, by threats, or force, intimidation, violence, violent or abusive language, or persuasion, any of the employees of plaintiff to refuse or fail to perform their duties as such employees.

"4. From compelling or inducing, or attempting to compel or induce, by threats, intimidation, force, or violence, or abusive or violent language, any of the employees of plaintiff to leave its service or fail or refuse to perform their duties as such employees, or to compel or attempt to compel by threats, intimidation, force, violent or abusive language, any person desiring to seek employment in or about the plaintiff's mine and works from so accepting employment therein.

"5. From entering upon or establishing a picket or pickets of men on or patrolling railroads or highways, public or private, passing through or adjacent to the plaintiff's property for the purpose of inducing or compelling by threats, intimidation, violence, violent or abusive language, or persuasion, any employee of plaintiff to fail or refuse to perform his duties as such, or for the purpose of interviewing or talking to any person or persons on said railroad or highways coming to plaintiff's mines to accept employment with plaintiff, for the purpose and with the intention of inducing and compelling them, by threats, violence, intimidation, violent or abusive language, persuasion, or in any other manner whatsoever, to refuse or fail to accept service with plaintiff.

REGULATING THE EMPLOYEE.

"6. From compelling or inducing or attempting to compel or induce by threats, force, intimidation, or violent or abusive language any employee of said plaintiff to refuse or fail to perform his duties as such employee; and from compelling or attempting to compel, induce by threats, intimidation, force, or violence, or abusive or violent language, any such employee to leave the service of plaintiff; and by like methods to prevent or attempt to prevent any person desiring to accept employment with plaintiff in or about its mines or works or elsewhere from doing so by threats, violence, intimidation, or violent or abusive language.

"7. From interfering in any manner whatsoever, either by threats, violence, intimidation, persuasion, or entreaty with any person in the employment of plaintiff who has contracted with

and is in the actual service of plaintiff, to entice or induce him to quit the service of plaintiff or fail or refuse to perform his duties under this contract of employment, and from ordering, aiding, directing, assisting, or abetting in any manner whatsoever any person or persons to commit any or either of the acts aforesaid.

"8. From congregating at or near the premises of plaintiff, and from picketing or patrolling said premises for the purpose of intimidating plaintiff's employees or coercing them by threats, intimidation, violence, abusive or violent language, or preventing them, in the manner aforesaid, from rendering their service to the plaintiff; and in like manner from inducing or coercing them to leave the employment of plaintiff; and from in any manner so interfering with the plaintiff in carrying on its business in its usual and ordinary way; and from interfering by threats, intimidation, violence, violent or abusive language, with any person or persons who may be employed or seek employment by plaintiff in the operation of the plaintiff's mines or works.

RIGHTS OF LABOR QUESTIONED.

"9. From either singly or in combination with others collecting in and about the approaches to plaintiff's mines and works for the purpose of picketing or patrolling or guarding the highway and approaches to the property of the plaintiff for the purpose of intimidating, threatening, or coercing any of plaintiff's employees from working in its said mines or works, or any person seeking employment therein, from entering into such employment, and from interfering with said employees in going to and from their daily work in and about the mines and works of plaintiff.

"10. And from either singly or collectively going to the homes and boarding homes of plaintiff's employees, or any of them, for the purpose of intimidating or coercing any or all of them to leave plaintiff's employment."

The injunction then enjoins the miners from "conspiring" to strike, from even using "persuasion" to "induce" employees to strike, from "trespassing," that is, going outside their homes for the purpose of "enticing" employees to leave the company's service. Can these workers be free if they do not have the right to stop work? If they have that right, how can they be restrained from "conspiring" to exercise it?

WHAT FREEDOM MEANS.

Mr. Chairman, have free workers a right to organize to promote their own welfare and happiness? How can they be restrained from conspiring to achieve that purpose, even without the permission of the company? In organization workers exercise personal rights. Note the skillful twist of this injunction specialist in the phrase "unionizing plaintiff's mine," which is intended to give the impression that property rights were endangered.

Note in section 3 another touch of the expert—"elsewhere"—limitless, boundless "elsewhere." And again "in any manner whatsoever." Can any judge be justified in forbidding the United Mine Workers from obstructing the business of the West Virginia-Pittsburgh Coal Co. "in any manner whatsoever"? Think of the manifold activities, perfectly legal, normal activities, covered by the phrase "in any manner whatsoever."

DESPOTIC LEGISLATION.

How can justice exist when a judge is permitted to issue injunctions which amount to despotic legislation? If even one judge may under existing conditions deprive even one worker of rights necessary to his freedom, then those existing conditions must be changed without delay. One human being is more valuable than a mine. But Judge Dayton ruthlessly trampled upon the rights of many workers, and by precedent all workers.

In section 5 the miners are forbidden to use railroads, private or public highways "passing through or adjacent to the plaintiff's property" for the purpose of "interviewing" or "talking to any person" or "in any manner whatsoever" to explain working conditions in the mines to enlist support for the cause of the strikers. Think of it—freedom of speech denied by an injunction in order to help the mine operators to keep their employees or "prospective employees" ignorant of their opposition to organized labor, higher wages, and better conditions of work.

The prohibitions of section 6 are not for the purpose of protecting mine property, but are for the very obvious purpose of helping the operators to fasten their grip upon their unorganized, impoverished employees. What property right has the West Virginia-Pittsburgh Coal Co. in the labor power of its employees? It has no property or property right in the labor of the mines. Then by what authority can any judge command workers not to induce fellow workers to refuse or fail to perform personal service—labor? If any of those conducting the strike should become too vehement in the manner of their inducement there is recourse at law for disturbance of the peace, and so forth. Assuming that the purpose of a judge in issuing an injunction may be good, yet by usurping authority, by establishing a precedent that constitutes a menace to free institutions, the issuance of that injunction is a greater and more far-reaching wrong than any act of violence by a worker overwrought from a sense of injustice.

ENTICE OR INDUCE ILLEGAL.

In section 7 members of organized labor and "all other persons whomsoever" are enjoined from interfering "in any manner" to "induce" the employees of the company to strike, or from ordering, aiding, directing, assisting, or abetting a strike "in any manner whatsoever." A strike is legal, yet this judge presumes to forbid free man to "entice or induce" free workers to "commit" legal acts.

What is the value of law if irresponsible judges may ignore it and substitute their own orders? How long can a constitutional government be maintained under judicial anarchy? How long can such a judiciary retain the respect of just, law-abiding citizens? Under section 7 of the injunction payment of strike benefits are prohibited; distribution of food and clothing to strikers and their families; every charitable impulse and every sympathetic desire to help those fighting for industrial justice are forbidden.

The prohibitions of section 8 are based upon the assumption that the right of the company to "carry on its business in its usual and ordinary way" is so sacred that the judicial authority of the United States may be exerted to protect that right and to prevent striking miners from securing higher wages and better working conditions.

Sections 9 and 10 prohibit the miners' officials and all persons whomsoever from singly or collectively using their influence with the company's employees or any seeking employment with the company to join the strikers' cause.

WRITTEN CONTRACTS BINDING.

The injunction contains several references to contracts of workers, implying that the company entered into written contracts with its employees equally binding upon both. Miners testified that they were hired from day to day under no formal contract; in fact, the only way the coal company could have had a contract with its employees was through the method it had rejected—collective bargaining with the representatives of its employees. Even had such a contract existed, it would give the employers no right to enforce performance of specific services.

The thirteenth amendment to the Constitution of the United States is a specific denial of such a right. It reads:

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

Those who know the industrial world know the powerful, heartless force of greed which opposes betterment of working conditions in order to maintain high profits; they know the long, unending struggle of the workers from slavery up to greater freedom; they know that in law, philosophy, and even in common phrases of speech are incorporated principles or fragments of principles based upon the concept that workers are slaves. All these constitute barriers to the freedom and progress of the workers. Many eminent conscientious judges do not understand this struggle of labor in effort to establish distinctions between human rights and property rights and to secure legal recognition of human rights for those who labor.

TRADITION MOLDS SYMPATHIES.

This injunction issued by Judge Dayton is typical of the injustice done by those whose habit of thought and sympathies are molded by traditions of the sacredness of property. Government was first established to protect property, but its functions have been constantly widened until now they extend to the protection of individuals and their rights as human beings. Some judges have not yet sensed this development; such a one is Judge Dayton, another is Judge Taft, one of those who inaugurated the practice of using injunctions to help employers against their employees in industrial conflicts.

Perhaps some qualm of an unsuspected conscience moved Judge Dayton to add the following paragraph to the temporary injunction:

The plaintiff's employees who have signed and entered into contracts introduced in evidence in this suit have the right at any time to terminate the contract and to go to work elsewhere, and when they have done so they have a perfect right to join the union of the United Mine Workers of America or any other labor union, and nothing in this order shall be construed as in any manner limiting their said rights.

A vague suspicion seems to be stirring in the judge's intellect, causing him to think that even labor unions may be legal in some localities. Perhaps he may have yet another idea, and

wonder how, if labor unions be lawful, men may be legally restrained from joining them.

JUDGE DAYTON'S CONTEMPT DECISIONS.

On November 11, 1913, the West Virginia-Pittsburg Coal Co. filed a petition and several affidavits asking that Van Bittner, president of the Pittsburgh district of the United Mine Workers, several employees of the coal company, and Meyer Schwartz, a local storekeeper who had leased to the United Mine Workers land upon which to hold meetings, be attached for contempt of alleged violation of the restraining order.

The injunctions and the suit brought, as we have already shown, were for the purpose of enabling the coal company to invoke the assistance of a Federal court in its controversy with its employees concerning wages and hours of employment. Is not this occasion sufficiently serious to cause thoughtful citizens to ponder upon the effect that such interference will have upon the attitude of the workers toward governmental authority and their respect for law and the judiciary? Injustice ever begets discontent and demands for reform. A wise and generous nation will give heed to these demands, however crude their expression. Sea captains might as well scuttle their ship as to ignore signs of approaching storms. The workers will not always patiently endure both burdens and injustice.

In March, 1914, some thirteen or fourteen of the employees of the company and three or four organizers of the United Mine Workers were tried at Philippi, W. Va., a town situated at a distance of about 150 miles from the company's mines, although the original chancery suit had been docketed at Wheeling, only a few miles from the mines.

JUDGE DAYTON'S METHODS.

Judge Dayton tried the cases, of course, without a jury. Particularly significant of his judicial attitude is the fact that he permitted hearsay and all kinds of evidence to be introduced before him, declaring that he would later determine for himself what part of the evidence was legally admissible and what part should be excluded.

The court rested its decision upon the supposition that the United Mine Workers is an illegal conspiracy and took "judicial notice" that in the chancery cause of the Hitchman Coal & Coke Co. *v.* John Mitchell et al., an entirely separate and distinct case now pending in the United States Circuit Court of Appeals for the Fourth Circuit, the court had found and determined the United Mine Workers of America to be an unlawful organization, "an unlawful and criminal conspiracy both under common law and the Federal Sherman Trust Act."

It follows that if a Federal judge can "take judicial notice" that the United Mine Workers of America has been determined an illegal conspiracy in another case, now pending before the court, any finding of a court may be regarded as established for any other case, and any Federal judge may "take judicial notice" that any other voluntary association of working people is "at common law and under the Federal Sherman Act" likewise an illegal conspiracy. If this precedent be established, any injustice may thus be perpetuated to the lasting injury of the working people, and, regardless of evidence in particular cases before a court, that court will be able to act upon "judicial notice" of what has happened in other cases.

ARGUMENT FOR REVISION.

These new abuses introduced by Judge Dayton constitute one more pressing argument for revision of the law and the practice regulating injunctions as well as the Sherman antitrust law. The application of the Sherman antitrust law to organizations of workers and the issuance of injunctions to regulate personal relations are based upon the same fundamental principle—that labor power is property. The workers demand that they be recognized as freemen, that the rights be restored to them which were theirs before the courts applied law and legal principles in a manner that robs them of personal rights of freemen.

In announcing his findings in the case, Judge Dayton called attention to a number of acts "committed" by the defendants as evidence of violations of the restraining order. Among them are these:

A few days after, on Sunday, Van Bittner and Oates appeared at the mine at Collier with a brass band of about 35 men, followed by a procession of some 125 organization men and sympathizers, from Steubenville, Ohio, largely, who marched across the company's property and held a meeting on the public road, which meeting was addressed by Bittner.

Shortly afterwards Oates rented from Myer Schwarz a small angle of unoccupied ground, possibly an eighth of an acre, surrounded on two or three sides by the company's property and an old road, about 1,000 feet from the company's pit mouth, and erected two tents there over which was placed a large sign, "Headquarters of the United Mine Workers of America." For the rental of this ground for six months Oates paid Schwarz $200, as he admitted, out of the organization funds, although the true rental value did not exceed for this six months $10 or $12 at most.

STRUGGLING TO ESTABLISH.

All acts of the miners struggling to establish better conditions of life and work in West Virginia should be considered in their relation to the power of the mine operators. That power was made practically supreme by ownership of the property and land upon which the miners must live and move. It was maintained by supervision of post offices, by control over stores and supplies, by ownership and control over schools and churches, by the company's mine guards, agents of detection and compulsion. These miners did not have one square foot of ground on which to exercise their guaranteed rights to life, liberty, and the pursuit of happiness; not one square foot for freedom of speech and the promotion of their own welfare and interest. Yet under the vague all-inclusive terms of a judicial order, a Federal agent of justice assumes the power to punish free men for renting a strip of ground upon which to live, to organize a union, and to carry out the normal and lawful purposes of that union. Under that restraining order the officials of the Mine Workers' Union are forbidden to give that organization friendly advice as to how to promote their interests or to aid them in efforts in any manner whatsoever. The purpose of this restraining order was to prevent organization among the workers, to prevent all methods by which the miners could make their protests effective, and to use the Federal courts as a strike-breaking agency in order to assist the mine operators to "control" their men to conduct their business in any manner that assured the highest dividends.

CONSPICUOUS ILLUSTRATION.

A funeral of a miner killed by the company's hired thugs was made conspicuous as an illustration of the company's method of dealing with men who retain a spark of independence. This the judge particularly notices in his findings.

Judge Dayton points out that funds of the United Mine Workers were used to retain lawyers to defend the men before the courts; to pay the fines of men arrested, and to furnish bail bonds. Could any judicial situation be more intolerable? What manner of justice does injunctive rule establish when it becomes unlawful to pay moneys demanded by the law?

In considering the defendants individually and in sentencing them Judge Dayton said:

Now the eighth paragraph of this finding will be to the effect that, while I do not deem it necessary in law to show further the connection of these men than that they joined this organization and were part and parcel of it, yet it will be in effect the setting forth of the individual acts of these defendants, and I propose to find these facts.

VERY QUEER VERDICT.

Frank Ledvinka was called before the court and declared guilty of the following:

This court will find that you are an organizer of the United Mine Workers, and have been for the last seven years a national organizer; that you come from Ohio for the purpose of organizing and carrying on this strike after the decision in the Hitchman Coal Co. case was decided and determined; that the United Mine Workers was a conspiracy and an unlawful organization; that you divided with James Oates the authority and leadership in directing and controlling the activities of the strikers, made speeches in which you urged the inauguration and the prosecution of the strike; sent Harry Youshack to the home of one of the company's employees to threaten him, aided in defending strikers who were arrested for assaulting nonunion men; broke the promise you made to this court on December 2; advised the strikers that they must fight, must stop the company's employees from working, must beat and assault them for the purpose of preventing them from working; that you were authorized, as stated, by Frank M. Hayes, international vice president of the United Mine Workers of America, to make this attempt to unionize the mines of the Panhandle section of West Virginia, and did what was done in this strike in pursuance of that authority.

EARNEST GIRL REPRIMANDED.

Fannie Sellins, a faithful, earnest girl, struggling to aid and improve the toilers' working conditions, was called before the bar and was thus addressed:

This court finds from this evidence that you are a paid organizer of the United Mine Workers; that you have made the false pretense of being engaged in religious and charity work; that you frequented the camp at Collier, which was not a fit place for any decent woman; spent most of your time with James Oates and Secundo Colliffe, aiding and assisting them in directing the activities of the strikers in preventing the company's employees from working; made inflammatory speeches intended to incite the strikers to acts of violance; incited and attempted assaults on the company's employees at the railroad bridge; aiding in providing supplies for the camp at Collier, using funds of the United Mine Workers; aided in the defense of the strikers arrested for assaulting the company's employees; participated in the attempt to make the Moore funeral a means of inciting the strikers to acts of violence; that you advised the strikers to beat up the nonunion men; that you advised the strikers to go to No. 3 mine and beat and assault nonunion men; that you led a mob of from 150 to 200 men to intercept the company's employees north of Wellsburg, paid their fares on the cars to the place where they divided into three several troops for the purpose of intercepting the company's men, whom you expected to come from work by one of the roads; that you advised the strikers to knock the heads off the nonunion men, whom you designated as "scabs"; preached to the strikers your defiance of the orders of this court and urged them to defy and disobey the court and its injunction; that you broke your promise made to this court on December 2, and, after promising to obey the injunction, made a speech in which your proclaimed your defiance and your intention to continue to disobey the injunction.

This being the evidence, the sentence of this court is that you be imprisoned in the Marion County jail for a period of six months.

EVIDENCE DECLARED FALSE.

Miss Sellins asked, "May I say one word?"

Judge Dayton replied, "Not one word."

Then Miss Sellins said, "That evidence is all false."

To Tom Smith Judge Dayton said:

This court finds from this evidence that you participated in the Moore funeral procession and assisted in the attempt to incite the strikers to violence by carrying banners with inflammatory inscriptions; that you aided in organizing and carrying on the strike at Collier and in many of the acts done there in violation of the injunctions; that you were a part of the time in charge and control of the camp at Collier and directed the picketing and other means of preventing nonunion men from going to work; that you did picket duty yourself for the purpose of preventing nonunion men from going to work; that you trespassed on the company's property after being warned not to do so.

This court sentences you to five months in the Wetzel County jail. Bond, $2,500.

The West Virginia mine operators have made efforts to induce immigrants to go to the State. Workers from countries where the standards of work and life are lower than in the United States, workers unacquainted with the American spirit of independence and self-protection, constitute, for a time at least, docile employees. For this reason the mine operators have sent agents abroad and to the port of New York to direct immigration toward their mines. Some of these miners acquired American views and joined the strike for greater freedom, and because of that are now said to be in danger of deportation as "undesirables." One of these "undesirable foreigners" tainted by American ideals, Ernest Ewald, was found guilty, as follows:

IMMIGRANTS INDUCED.

This court ascertains that you were an occupant of the tents at Collier from the time the camp was established and stayed there for the purpose of picketing the approach to the mine and preventing nonunion men from going to work there and of intimidating those who were working; that you did picket duty for the purpose of preventing nonunion men from going to work there; that you trespassed on the company's property and were fined by the local authorities for so doing; that you stopped men on their way to work at Collier and caused them to turn back and go away; that you patrolled as a picket at the camp at night armed with a gun. You are a foreigner. I have no doubt but what you were misled into this, but, nevertheless, it is clear that you came to this country, where you can make twice as much for a day's wage as you can at your home; yet you preferred to follow this unlawful organization instead of earning your living honestly in legitimate labor and the sweat of your brow. You preferred to take their hired pay of a few dollars a week and work against law and order and peace and sobriety and the rights of men and the rights of property; you preferred to do that. You will be sentenced to three months in the Monongalia County jail. Bond, $1,500.

Another foreigner was given this judicial interpretation of American liberty and justice:

This court finds from the evidence that you frequented the camp at Collier; that you did picket duty for the purpose of preventing the nonunion men from going to work, and trespassed on the company's property at the mouth of the mine frequently.

You are a foreigner, and came to this country for the purpose of improving your condition. You were making more money, twice over, than you could get in your own country, yet you preferred to join this unlawful organization and engage in these unlawful practices rather than to work and make the higher wages, honestly and upright and under the law. You still remained there after you quit work instead of going away and leaving this company to exercise its rights over its own property. I will sentence you to 30 days in the Hancock County jail. Bond, $500.

MENTAL BIAS AND PREJUDICE.

The language of Judge Dayton reflects mental bias and prejudice against the workers. He permitted to be laid before the court as evidence hearsay and other improper testimony. Witnesses for the prosecution were permitted to testify as to facts and occurrences not within their personal knowledge. Witnesses were permitted to testify in such a way that it was not possible to tell what statements were based on personal knowledge and what on information gained from others. Testimony of a prejudicial nature, not pertinent to the charges, was admitted in evidence. The court so ordered, saying that he would determine what should be accepted and what rejected. Yet, in announcing his findings, Judge Dayton said:

Now, gentlemen, touching the questions of these motions that have been made, I want to say I do not regard it as incumbent upon myself as a judge to go to the labor of setting forth in detail what part of this testimony is irrelevant, improper, and immaterial. There are 759 pages of it. I do regard it as my duty to file in these cases a finding of fact from the material and relevant testimony, rejecting the consideration of that which is immaterial and irrelevant.

Judge Dayton's methods destroy the definiteness of rights of law and undermine the foundations of justice.

An appeal was taken to the United States Circuit Court of Appeals, where the cases were argued during the first of May.

APPALLING PROOFS.

No more distressing, appalling proofs of need of reform of law relating to the injunctive process can be found than the injunctions issued by Judge Dayton. It is the abuses of judicial authority, jurisdiction, and power that beget bitter, burning indignation against the methods and agents of justice. If we would prevent our courts from being brought into contempt, we must see to it that they are really agents of justice. No court should be prostituted to the service of the private purpose of individuals. No court should be used as a strike-breaking agency.

The restraining order, the temporary injunction, the contempt proceedings in Judge Dayton's court show that the purpose for which the usurpatory power was invoked was not to prevent irreparable injury to property, but to rivet the fetters on the workers to defeat an industrial movement to secure better wages and conditions of work and to prevent any weakening of the autocratic rule and domination of the mine owners.

JUSTICE, TRUTH, AND EQUALITY.

Such "judicial proceedings" will solidify the great labor movement in West Virginia, and with the solidification will come the public awakening, now dormant, to the realization that an autocratic court can only temporarily trample upon the rights of its citizens, but in the end justice, truth, and equality must stand before the American courts as truth, justice, and equality stand before God.

While the period of transition is in progress, while certain courts are cleaning themselves of their present unwholesome associations; throwing off the cloak of selfish and sinister influence, labor will have to fight its battle, make the sacrifice, be punished, reprimanded, and made unhappy; yet so surely as the silver lining follows the cloud, so surely will it emerge from its present unfortunate condition in West Virginia, redeemed and triumphant. And with the redemption will come a clean court, with honor, justice, and equality actuating its every movement; and with the same redemption the court will see about it a happy people, honoring and respecting it because of its strict adhesion to the American principles of justice.

THE RESTRAINING ORDER.

I desire to say a word on the "restraining order" and "temporary injunctions." These legal instruments forbid acts which may cause injury to property, and broadly prohibit any acts which would enable the workers individually or collectively to work in furtherance of their particular interests.

In violation of these intended sacred principles of equity the evident purpose of the West Virginia mine operators was, and in certain sections of the same State now is, to perpetuate anti-union policies for their own greed and aggrandizement, and forcing upon their employees working conditions little better than slavery.

I believe, and it is my sincere conviction, that the principle of justice is of incalculable importance to these miners of West Virginia and to the workers elsewhere in these cases.

I believe in the right of dissatisfied workmen and their sympathizers to organize; to conduct a strike for the purpose of securing better terms and conditions of employment; the right to furnish and receive strike benefits.

I do not believe in the practice of employers, under the guise of "sacredness" of contracts for personal services, preventing anyone from approaching their employees to ask them to quit work and to join with fellow workers for the protection and the promotion of the interests of all; I do not believe in the practice of a judge issuing orders restraining persons from doing that which they have a lawful right to do and the practice of a judge punishing them for violating such unlawful orders.

BETTERMENT OF HUMAN LIFE.

The House is now considering a bill for the reform of abuses of the injunctive process. Those abuses American workers have felt more keenly than all other citizens. In the name of justice they demand the speedy enactment of law adequate to prevent future perversions of justice. They demand not only that organizations of workers be deemed lawful, but that they be accorded the legal right to such normal and necessary activities as will make organizations real forces for the betterment of human life.

Associated effort for self-help is the only protection upon which the workers can rely. It has done more than any other force for the uplift of the masses of our country. It will do more as the way is opened to greater opportunities. The workers demand these opportunities in the name of justice and humanity. They demand legislation that shall exempt them from the provisions of the Sherman Antitrust Act and protect them from abuses of the injunctive process. [Applause.]

Mr. CARLIN. Mr. Chairman, how much time has the gentleman from Minnesota [Mr. VOLSTEAD] remaining?

The CHAIRMAN. The gentleman has 10 minutes remaining.

Mr. CARLIN. I ask that the gentleman use some of his time.

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. MORGAN].

The CHAIRMAN. The gentleman from Oklahoma [Mr. MORGAN] is recognized.

Mr. MORGAN of Oklahoma. Mr. Chairman, evidently no argument is necessary before this House to secure the passage of this amendment. I wish, however, expressing my own personal views, to declare myself in favor of this amendment, not that I believe that this amendment contains all that should be added to this section, but because I understand the proposed amendment has the approval of the labor organizations of this country, and I assume the leaders of such organizations have carefully examined the amendment and are satisfied with its provisions.

Mr. Chairman, if there be a conflict between capital and labor—and, in a broad sense, there should not be—but if there be or is such a conflict, so far as I am concerned, after the most careful and deliberate consideration on my part, I propose to place *myself on the* side of labor. [Applause.]

Because, gentleman, I believe that on that side lie the interests of my country and of humanity. The great bulk of the citizens of this country are wage earners. The great bulk of the wealth produced in this country is distributed through the payment of wages. Labor organizations have their imperfections, no doubt. But, on the whole, I believe such organizations are beneficial to the country and helpful to all wage earners. Such organizations may be at times subject justly to criticism. But what organization of human beings is not subject to criticism? But with all their defects I believe it would be a calamity for this Nation if such organizations should cease to exist. In my judgment it would be a misfortune to the country if through our national laws our labor organizations should be hampered and hindered in all their legitimate work. So far as we can aid them by national legislation in their great purpose of shortening the hours of labor, increasing wages, and improving conditions under which labor is performed we should do so, and by so doing I believe we are rendering a patriotic service to our country. There are many who think legislation favorable to labor organizations means hostility to the great business interests of the country. This is not true. The intelligent wage earners of the United States know that, after all, their own welfare depends upon the prosperity of business. They know that business must prosper or labor will suffer. Employees know that any serious loss to employers will react unfavorably upon employees. So that, after all, I believe the business interests of this country are really safe in the hands of labor. We have in the United States the most intelligent workingmen in the world. They know that their share of wealth must come through wages paid; that good wages can not be paid by business concerns that are unprofitable. So that I can not think that our labor organizations are hostile to business or are dangerous to industrial peace. More than that, the very strength of this Nation, the perpetuity of this Republic, depend largely upon the attitude of the wage earners of this country toward our institutions and our flag. I believe the National Government should by its legislation indicate its friendliness toward the labor of this country, so that the great labor organizations of this country and the rank and file of the army of wage earners of this Nation who are not in organized labor will have a friendly attitude to our institutions, to our country, and to our flag; so that in time of war, in time of stress, in time of danger, the great body of wage earners, constituting the masses of this Nation, will remain true and loyal to the flag of our country. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. VOLSTEAD. Mr. Chairman, I desire to occupy only a minute or two in speaking on this amendment.

I desire to call attention to a peculiar situation. This morning I read in one of the newspapers that labor claims for this proposed amendment one meaning while the administration claims an entirely different meaning. It seems to me that we ought to write the amendment so that it will not be open to dispute as to its meaning. If this amendment is intended to legalize the secondary boycott, this House ought to know it. If it is intended, as I believe it is claimed by those who present it on this floor, simply to legalize the existence of these organizations, I do not believe there is anyone here who would be opposed to it. It is very unfortunate that an amendment should be proposed to this bill which must of necessity go into the courts after it becomes a law before anybody will know definitely just what it means. It looks as though it has been drawn to deceive somebody. It is perfectly plain that if those who drew it intended to write a clear exemption of labor into this statute, they could easily have found the language. It is unfortunate, and it seems to me that before we close the discussion on this paragraph some proposition ought to be submitted that no one can dispute. We ought to know what we are voting for. [Applause.]

I yield to the gentleman from Iowa [Mr. GREEN] the balance of my time.

The CHAIRMAN. The gentleman from Iowa [Mr. GREEN] is recognized.

Mr. GREEN of Iowa. Mr. Chairman, while I agree with the gentleman from North Carolina that this amendment only expresses the consensus of the best opinion as to what the law now is, I am still of the opinion that it is well to put in the statute an affirmative declaration which can not be misunderstood. Under the Sherman law as it now stands a labor organization is perfectly legal, and a peaceable strike or peaceable picketing is perfectly legal, under the decisions of a majority of the courts.

Mr. Chairman, I had occasion not long ago to advise a committee of a labor organization who waited upon me. They were engaged in a strike against the Harriman and Illinois Central lines. They represented a body of machinists. They told me they were threatened by the attorneys of those railroads with a prosecution under the Sherman law. I advised them that the Sherman law had no application to the situation as it existed under their strike, for their strike was a perfectly peaceable one. They had committed no violence. They had threatened no one with violence, but had simply expressed by their action their right as organized members of a fraternity to stop work peaceably. I told the men not to be alarmed; that no prosecution would be begun, and to tell the railroad attorneys to go ahead if they desired, but in the end they would meet an action for damages for malicious prosecution. But the men were not prosecuted. There was no action begun against them, nor was anything done under the Sherman law. Yet there is, as I think, some necessity for this provision, for the reason that there have been isolated decisions by the lower Federal courts holding that the mere organization of a body of laborers for the purpose of maintaining or raising wages is contrary to law. There have been some indictments under the Sherman law, and one is now pending, as I understand it, in Colorado. It is true that the reason has been given that in the particular instances to which the law has been so applied that violence had been committed or attempted. But there should be some definite standard, and the section as amended fixes one, and labor organizations which confine themselves to legitimate purposes need not fear the law.

Mr. WEBB. I yield to the gentleman from Missouri [Mr. DECKER].

Mr. DECKER. Mr. Chairman, I shall support this amendment. It distinguishes between the man and the dollar, between the ore and the man who digs the ore, between the throttle and the man at the throttle. It distinguishes between labor and the products of labor. It is a just distinction, which was written before the formation of government upon the tablet of nature by Almighty God. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Connecticut [Mr. REILLY].

Mr. REILLY of Connecticut. Mr. Chairman, I am in favor of the plainest statement of the intention of the committee in regard to the amendment under consideration. If the committee intended to exempt labor and farmers' organizations from the operation of the Sherman antitrust law, why does it not say so?

I am not a lawyer; just a common layman, without ability to give a judicial opinion, but I do know what is meant when it is stated that the Sherman antitrust law shall not apply to certain organizations.

Let us state the case as plainly as possible, so there will be no doubt in the mind of anyone as to what it is intended to do. If these organizations are to be exempted, let us say so; if they are not, let us say that. Do not let us quibble nor leave it to courts to upset the intention of Congress in this matter.

Mr. CARLIN. I yield to the gentleman from Ohio [Mr. BRUMBAUGH].

Mr. BRUMBAUGH. Mr. Chairman, I desire to state that personally I favor the plainest and most explicit declaration possible in behalf of the rights of labor. I think this is best for both sides concerned and interested in this matter. I shall vote for this amendment, because I understand it meets with the approval of labor organizations that have carefully examined it, and at the same time it is considered fair by those who employ labor. In fact, I am informed that the amendment is the result of mutual understanding between both labor leaders and employers of labor, and I have been advised and assured personally by labor leaders in whom I place every confidence that the

amendment is satisfactory to labor organizations and friends of labor everywhere.

Mr. Chairman, it is gratifying, indeed, to those of us who have been the friends and champions of labor and labor laws for years, both here and elsewhere, and who at the same time have wanted this great advance made in justice not only to labor but to honest employers of labor as well, to see this great question settled in this sensible, reasonable, amicable manner, in this spirit of fairness to all concerned, and thus see this tardy justice done to the great cause of labor, upon which the prosperity and happiness of the people as a whole and the growth and grandeur of our great Nation must ever rest. No nation can be or ought to be strong and great and secure that does not respect and honor its laboring men and women. The most honorable and dignified thing in all this world for any man or woman is honest labor, whether of hand or heart or brain; for did not the Nazarene Carpenter, the Christ Himself, give to honest labor a halo of honor and dignity that no rank of birth or wealth can equal or enjoy?

Extremely gratifying to me, indeed, is it to see this great Democratic Congress keep and redeem our promises made to labor and labor organizations; to see this Democratic Congress place the man above the dollar and to be able to hear the heartbeats of humanity above the clinking of the coin of commercialized wealth. [Applause.]

No other Congress in 50 years has done so much by law to assist and relieve labor. By our tariff law we take the hand of trust monopoly on the high prices of the necessaries of life out of the pockets of the laboring man. By our currency bill we protect his little saving in the banks from the panicky gambling heretofore pastime operations of the money power. By this amendment we take the hands of those who would oppress and tyrannize off of the throat of labor and let it breathe free.

Mr. Chairman, personally I want to say that I am proud to have come from the ranks of laboring people myself. I know by years of personal experience their life of toil, and I can sympathize with their struggles and needs. Laboring men seldom ask for aught but their just deserts, and the Good Book says that the laborer is worthy of his hire and condemns those who would oppress the laborer in his way.

I propose now, as I always have in the past, to stand for all just demands in labor's interests.

I congratulate my friends and fellows, the laborers, on this advance, which is the promise, I trust, of the dawning of a better day wherein labor shall receive its just recompense of reward, wherein life shall be sweeter, labor lighter, and the world for all a better place to live upon. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLIN. Mr. Chairman, how much time is there remaining?

The CHAIRMAN. The gentleman has six minutes.

Mr. CARLIN. I yield to the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS of Maryland. Mr. Chairman, I want to extend my sincere congratulations to the committee that has reported this bill and that has now proffered the amendment which will perfect section 7. It is not too much to say that by this single measure, with its complementary sections on injunctions and contempts, by one single stroke of the legislative hand more is being done in our country to rectify the judicial status of the great toiling masses than has ever been accomplished in our history before. [Applause.] Nor does this mean violent or radical treatment of the relations of labor and capital.

This section 7, taken with its complementary sections, places the American workman where the British workman was placed by Parliament in 1906. Their experience shows that property will be as safe, the rights of employers will be as secure, if this measure is enacted into a law, which I predict will become known as the great magna charta of American workmen. [Applause.]

Everybody understands that section 7 would have been written into the Sherman Act in 1890 had there been any thought of the application since made of that great act. Everybody knows that Congress at that time had no thought of legislating with regard to the relations of employers and employees. I challenge contradiction for that statement. If Congress had ever intended to legislate upon these relations and saw fit to do what the States may well do and are doing, for it is their subject matter and not a Federal subject matter—prescribing penalties for individual wrongs when committed—I challenge the gentlemen of this House to say that Congress would have ever said to the toiler: "If you overstep the line and commit a tort, you shall be subject to threefold damages." That was the natural sentence to have pronounced on the trust, an outlaw organization that sought to suck up all the commercial profit and power of the Republic. That is a sentence—the sentence of outlawry—that never can be pronounced, now or in the future, on a peaceful organization of workingmen. [Applause.]

I know there is some misapprehension. Some honest people are inclined to think that this section may mean a species of class legislation. They commit the error of considering labor as a commodity, a natural error inspired by the circumstances under which the price of labor, unfortunately, is sometimes determined by the iron laws of the market. But there is this distinction between labor and a barrel of oil, a commodity: Labor is never in truth a commodity; labor can never under our institutions be property, either before the court or before the legislature. Under our Constitution, property in human beings has forever ceased. While a barrel of oil is not only a commodity in the market, it is a commodity before the courts; it is a commodity before the legislature. The legal attribute of a commodity is property; but the legal attribute of the workingman is citizenship. A different principle of sociology and justice apply to these two subject matters when they are before Congress or before the courts. The rules that are rationally applicable to property can seldom be justly applied to the man. I thank you, gentlemen, for your attention. [Applause.]

Mr. WEBB. Mr. Chairman, I yield the remainder of my time to the gentleman from Virginia [Mr. CARLIN].

Mr. CARLIN. Mr. Chairman, I want to read into the RECORD two editorials, one from the Globe and Commercial Advertiser, of New York, of Thursday, May 28, and another from the Springfield Daily Republican, of Thursday, May 28.

They are as follows:

THE SO-CALLED LABOR EXEMPTION.

The Globe is pleased to note a subsidence of the determination to misrepresent and to appeal to prejudice against an explicit recognition by Congress of the right of labor organizations to exist. A year and two years ago, when the issue was up, the public was confused by untrue statements, oracularly made, that the labor unions were browbeating Congress into exempting them from prosecution under the Sherman law. A reading of the proposed amendment to the Sherman law revealed the misrepresentation, but few could be induced to read it. It became almost a truism in certain quarters that the wicked labor unions were asking the special privilege of committing crimes at pleasure.

But last night the Evening Post, which has been one of the worst offenders in the past, published in its Washington correspondence a fair summary of the proposed amendment. And this morning the Times, which has formerly raged against the black horror of authorizing the commission of crimes, acknowledges in its editorial that the law gives to the unions no greater rights than are already theirs under a reasonable reading of Chief Justice White's "rule of reason." Only the Sun remains to cry out in the old, lusty way against the alleged tyranny of Gompers and his associates.

If labor organizations now have the right to exist and to carry out the legitimate objects of the association, then the amendment is merely declaratory of the present law, and in the nature of surplusage. But in the Danbury hat case the Supreme Court used language that suggested that perhaps labor unions are per se illegal under the Sherman law—that it is an illegal restraint of trade for men to agree to work for similar wages or to quit work in a concerted way. Several Federal district attorneys have threatened and one or two have actually begun proceedings for the dissolution of labor unions as involving restraint of trade. Their right to exist being thus called in question, it is not strange that the labor organizations ask for an affirmative recognition.

There is no license to commit crime. Talk along this line is bosh. If a labor organization violates the Sherman law, it will be open to prosecution under the Sherman law. But its members may not be sent to jail for merely belonging. This may be the law now; but doubt has been thrown on the right of men to combine together for the joint selling of their labor, and it is worth while to have the doubt removed.

THE LABOR AMENDMENT.

Organized labor by no means gets what it demanded in the labor amendments to the Federal antitrust law now under consideration by the lower branch of Congress. But it has secured something from the majority party. Complete and unqualified exemption from the operation of the Sherman Act was asked for on the lines indicated by the bill introduced and championed by the late Senator Bacon, of Georgia, a conservative of the older school, it is interesting to note. Senator Bacon always stoutly maintained that no intention whatever existed on the part of the Congress that passed the Sherman Act in 1890 to bring labor organizations within its prohibitions, but the courts did what Congress did not do by interpretations of the law. Such is the strong belief of many of the students of that legislation. Yet none of the leading political parties has ventured to indorse fully the exemption demand. The Democrats in 1908 and 1912 inserted in their national platform:

"The expanding organization of industry makes it essential that there should be no abridgment of the right of wage earners and producers to organize for the protection of wages and the improvement of labor conditions to the end that such labor organizations and their members should not be regarded as illegal combinations in restraint of trade."

That idea, so far as it goes, if carried into effect, would insure exemption for labor organizations from the antitrust law, but it has to do only with the "restraint-of-trade" prohibition contained in the act. The exemption should surely go that far, if no further, and the Republican is glad to see that the amendment said to be agreed to by the House leaders and the radical labor representatives in that body reads as follows:

"That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purpose of mutual help and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organiza-

tions, orders, or associations from carrying out the legitimate objects thereof; and such organizations, orders, or associations, or the members thereof, shall not be construed or held to be illegal combinations in restraint of trade under the antitrust laws."

The reason why the amendment of the antitrust act, to that length at least, is desirable and even necessary is that section 1 of the act is so comprehensive in its scope that the courts are at liberty to regard anything in the form of a combination that has the effect of "restraining trade" as a criminal conspiracy. Logically speaking, there is no reason whatever why the Federal courts should not outlaw strikes of wage earners as conspiracies whenever those strikes, as they often do, have the effect of restraining trade or commerce among the States. It is well known that down until recent times the lawful right to strike, to quit work in concert, was not recognized. The right to withdraw labor power, not individually but collectively, is the very foundation of the modern labor movement. It corresponds to the churchman's constitutional right to the free exercise of his religion. The Sherman antitrust law menaces the right to strike, and therefore the demand for the amendment of the law is justified.

That labor's fears are well founded concerning the gradual extension of the scope of the law of 1890 to prohibits acts whose lawfulness had been recognized in England and America, after generations of struggle, as a necessary concession to labor's moral right to improve its economic condition under the wage system appears convincingly in the several suits brought under the statute in recent years against labor organizations. Suits of that character are now pending in the courts. One Federal judge in Louisiana ruled that a strike to force employers to enter into a joint agreement with union labor was in restraint of trade under the antitrust act. Union labor in the West Virginia coal fields has been lately haled into the Federal courts accused of conspiracy under the same law. A clearer legal definition, a more specific legal understanding of labor's rights under Federal law in initiating and maintaining strikes and other acts of industrial warfare—so long as that sort of warfare is permitted and even legalized under our system—becomes most desirable. The extreme comprehensiveness of the Sherman Act, so much admired by those who imagine that it is the last word in legislation affecting monopoly, may become a danger the moment the law is permitted to run beyond those "unlawful restraints and monopolies" in interstate commerce which it was chiefly designed to curb.

Violent protests against these labor amendments to the antitrust law emanate from several quarters. It is urged most vehemently that they grossly violate the principle of equality of all people before the law. But the truth is that when wage earners won the right to quit work in concert they were necessarily conceded an exceptional status under the old conspiracy laws. "Inherent differences that exist" should be "recognized by the laws and the courts as well as by reason," says Samuel Gompers, and Samuel Gompers, for once at least, tells the truth with much clearness and force. There are inherent differences between combinations of wage earners and combinations of corporations seeking to monopolize industries. So, too, there are inherent differences between industrial corporations and railroad corporations, which should be recognized by the laws. The Federal antitrust law is unsatisfactory; it will never be wholly successful in its working until it is confined to its proper field. Railroads should be exempt from it; so should labor. But that is not saying that railroads and labor should be exempt from all law. There will be law enough to go around, everyone should believe.

Mr. Chairman, I want to say just a word in concluding the debate on this great subject. The Democratic Party is now about to fulfill its promise made to the great labor organizations and the farmers' organizations of this country. [Applause.] We have decided that flesh and bone shall no longer be considered a commodity in the sense of manufactured products. We have decided that human beings shall be placed above things. We have decided that men with consciences and minds shall be recognized before the law as such, and that those that labor with their hands and hearts for wages shall be separated from the things which they produce. [Applause.]

We have gone as far as we can consistently and rightfully go under our Constitution. A step further, in my judgment, toward the amendment offered by the gentleman from Kentucky [Mr. THOMAS] and the gentleman representing the Progressives on this floor would be in the very teeth of the Constitution itself, and while they cry out that they want to do more for labor they know or ought to know that what they can do for labor organizations must be done under our Constitution and not in violation thereof. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken; and on a division (demanded by Mr. MURDOCK and Mr. THOMAS) there were 207 ayes and no noes.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read the amendment offered by the gentleman from Kentucky [Mr. THOMAS].

The Clerk reads as follows:

Strike out all of section 7 down to and including the word "thereof" in line 10 and insert the following:

"The provisions of the antitrust law shall not apply to agricultural, labor, consumers, fraternal, or horticultural orders or associations."

Mr. BARTLETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. If that amendment is adopted, it leaves the amendment by the gentleman from North Carolina that we have just adopted in the bill, does it not?

The CHAIRMAN. The amendment of the gentleman from Kentucky seems to strike out the paragraph as amended.

Mr. BARTLETT. It strikes it out down to and including the word "thereof," so it would not strike out the amendment just adopted.

Mr. THOMAS. Mr. Chairman, I move to strike out the first paragraph of section 7 as amended.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to modify his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. BARTLETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARTLETT. Mr. Chairman, as I understand it, this amendment of the gentleman from Kentucky [Mr. THOMAS], if adopted, does not affect the amendment that we have just adopted?

The CHAIRMAN. The Chair thinks that it strikes out the whole of the first paragraph of section 7 as amended.

Mr. BARTLETT. Then this amendment of the gentleman from Kentucky, if adopted, would take the place of the paragraph as it has been amended?

The CHAIRMAN. That is the opinion of the Chair. The Clerk will report the amendment as modified.

The Clerk read as follows:

Strike out the first paragraph of section 7 as amended and insert in lieu thereof the following:

"The provisions of the antitrust laws shall not apply to agricultural, labor, consumers', fraternal, or horticultural organizations, orders, or associations."

Mr. THOMAS. Mr. Chairman, it is well enough, as a distinguished gentleman from Georgia at one time said on the floor of this House, to stop and see just where we are at. Courts in construing laws always construe the law as a whole. Let us read and construe this section as amended, and see just where we are at. Section 7 provides that nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations or associations instituted for the purpose of mutual help and not having capital stock or conducted for profit. As amended it will read:

Labor, fraternal, agricultural, or consumers' organizations shall not be held or construed to be illegal combinations in restraint of trade under the antitrust law.

What labor organization? What agricultural organization? Construing this law as a whole, only those organizations which do not have capital stock or are not conducted for profit. Those are the only two classes that this bill as amended applies to. If a labor organization is conducted for profit, this amendment does not apply to that organization; if a labor organization has capital stock, this amendment does not apply to such an organization, because, reading and construing the law as amended, in its entirety, only organizations which have no capital stock and which are not conducted for profit are exempt under this amendment.

What is the object, the very primary object of a labor organization? It is profit. Profit how? To advance and increase the wages of its members. That is a profit to them, and consequently that amendment can not apply to such organizations, because you have got to construe this law in its entirety, and no court will construe it piecemeal. What is the object of the farmers' organization? It is to obtain better prices for their products, and that is a profit to the farmer, and if that is a profit to the farmer then your amendment does not apply, because your amendment can apply only to those organizations which are named in the body of this bill. This bill limits it to those organizations which do not have capital stock and are not conducted for profit.

I voted for this amendment. I do not think there is anything in it. I do not believe that it changes in one iota the original text of the bill. Gentlemen have said that they desire above all things to exempt these organizations from the operations of the antitrust laws. If you do, why do you not do it? My amendment is plain. It is concise; it will not take any court to construe it, because it provides that these antitrust laws shall not apply to these associations, and that is what the farmers and the laborers of this country want; and if you want a clear, clean-cut exemption, vote for this amendment of mine and you will get it; otherwise you will not.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. MACDONALD. Mr. Chairman, I wish to offer an amendment, which I send to the desk, as an amendment to the amendment offered by the gentleman from Kentucky.

The CHAIRMAN. The Clerk will report the amendment to the amendment, offered by the gentleman from Michigan.

The Clerk read as follows:

Amend section 7 by striking out all of the first paragraph before the Webb amendment after the word "shall," in line 4, page 24, and insert the following in lieu thereof: "apply to trade-unions or other labor organizations organized for the purpose of regulating wages, hours of labor, or other conditions under which labor is to be performed, nor to any arrangements, agreements, or combinations among persons en-

gaged in horticulture or agriculture, made with a view of enhancing the price of their own agricultural or horticultural products; nor to fraternal or consumers' organizations, orders, or associations, instituted for the purposes of mutual help and not having capital stock or conducted for profit."

Mr. MACDONALD. Mr. Chairman, this amendment will accomplish the purpose designed by the amendment of the gentleman from Kentucky [Mr. THOMAS], but it will also leave in the Webb amendment, so that those who are really interested in getting an exemption of these organizations in this law will have the benefit of both of those ideas. There are many gentlemen on this floor who are not in favor of this idea, and there are many gentlemen who are in favor of the idea of really exempting these organizations; and I say again that if you are in favor of exempting these organizations specifically from the operation of these laws, vote for this amendment. If you are not, do not vote for this amendment, because this makes it plain and unmistakable in its meaning.

Mr. WEBB. Mr. Chairman, I take it that the Committee of the Whole has perfected section 7 to its satisfaction when it adopted the amendment which was just adopted by a vote of 207 to nothing. These amendments offered in addition thereto have been discussed, and I understand that the sentiment of the House is that section 7 should be amended as it was amended a moment ago, and no further.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. MURDOCK. The gentleman has heard the amendment of the gentleman from Kentucky and that offered by the gentleman from Michigan, and we have just had a vote which shows a remarkable state of affairs, that every Member present is in favor of the exemption of organized labor from the provisions of the Sherman antitrust law. This is a matter which has been in controversy for 24 years, and what I want to ask the gentleman is this: In view of this remarkable unanimity, does not the amendment offered by the gentleman from Kentucky and that offered by the gentleman from Michigan go much further than the gentleman's amendment?

Mr. WEBB. I could not say it goes much further; but why should the gentleman from Kansas [Mr. MURDOCK] want a division on the floor of the House when there is no division as between labor and capital and the farmers. All of us are united on this.

Mr. MURDOCK. From the debate I will say to the gentleman that there is a great difference of opinion as to just what his amendment does. I do not think, and I do not think the gentleman thinks, that it goes as far as that amendment offered by the gentleman from Kentucky [Mr. THOMAS] and that amendment offered by the gentleman from Michigan [Mr. MACDONALD], and I would like to ask the gentleman from North Carolina this, and then I will take my seat: Did the Committee on the Judiciary intend the Webb amendment to exempt organized labor from the provisions of the Sherman antitrust law?

Mr. WEBB. It certainly does exempt their existence and operation if organized for mutual help and without profit.

Mr. MURDOCK. Does it say anything——

Mr. WEBB. We wanted to make it plain that no labor organization or farmers' organization organized for mutual help without profit should be construed to be a combination in restraint of trade or a conspiracy under the antitrust laws. Now, I will say frankly to my friend that we never intended to make any organizations, regardless of what they might do, exempt in every respect from the law. I would not vote for any amendment that does do that. [Applause.]

Mr. MURDOCK. If the labor organization goes beyond the province of mutual help, then is it subject to the Sherman antitrust laws?

Mr. WEBB. If it violates the law, it is. Of course it is an organization subject to the law, and I ask if my friend from Kansas would vote to exempt it from all laws?

Mr. MURDOCK. I would vote to exempt it from being confined under the antitrust laws to mere inactive existence.

Mr. WEBB. But the gentleman would not vote to exempt it and nobody else from all laws?

Mr. MURDOCK. I understand that, but I would give strikers the right to peaceful assemblage.

Mr. WEBB. We give them that right in this bill.

Mr. MURDOCK. I doubt it very much.

Mr. CARLIN. The gentleman can not doubt it if he will read section 18.

Mr. MURDOCK. Section 18 of this bill confines its jurisdiction to employers and employees. Strikers are not employees. The relation of employer and employee ceases when employees strike.

Mr. WEBB. I do not know how my friend——

Mr. MURDOCK. That is the way I read section 18.

Mr. WEBB. The gentleman should read it like the lawyers of the labor unions of the country read it, and I believe they understand it. We expressly provide in section 18 that labor organizations can strike, that they can persuade others to strike, that they can pay strike benefits, that they can have peaceful assemblages, and a great many other things. That is their bill of rights and they are satisfied with it, and what is it that dissatisfies my friend from Kansas if the labor people of this country, if the farmers of the country, and the capitalists of the country are satisfied with it? [Applause.]

Mr. MURDOCK. I will tell the gentleman why I am not satisfied. The gentleman from North Carolina and the Judiciary Committee have left out the same words, "shall not apply to," which have been carried in all amendments for the last 24 years and put into the amendment language that must be construed by the courts and construed how heaven only knows and the gentleman from North Carolina does not know.

Mr. WEBB. That is what was said about "restraint of trade," "reasonable doubt," and a thousand expressions you can not exactly define, but you have got to leave something to the courts. This is what labor wants, and I think my friend from Kansas ought to be satisfied.

Mr. KEATING. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. KEATING. I want to ask the gentleman from North Carolina if it was not the fact that the representatives of the organizations of labor in this city who represent the great national organizations and the representatives of the great national farmers' organizations had not gone over this amendment and if they did not state this is exactly what they wanted?

Mr. WEBB. That is my understanding, and of course everybody so understands it.

Mr. KEATING. And if the representatives of labor and the representatives of the great farmers' organizations have not some kick coming to them, what does the gentleman want us to do now? [Applause.]

Mr. MANN. That is my understanding.

Mr. NELSON. Mr. Chairman, the gentleman does not know——

The CHAIRMAN. The time of the gentleman has expired.

Mr. SCOTT. Mr. Chairman, I move to strike out the last word.

Mr. NELSON. Mr. Chairman, I move to strike out the last word, just to ask a question of the gentleman, because if these amendments are voted down, as possibly they may be, I wish to offer an amendment which I have carefully prepared on the question of farmers' organizations. The gentleman said that the representatives of the farmers' associations have agreed to this amendment. I ask him to name one representative of any farmers' association that agreed to this amendment. I have received telegrams from farmers' associations protesting most vehemently against them. Now, will the gentleman name one representative from these farmers' associations——

Mr. WEBB. I will say to my friend that I have never heard of a single farmer objecting to the provisions of this bill.

Mr. NELSON. Has the gentleman seen a single representative of the farmers' associations in reference to this amendment?

Mr. HENRY. If the gentleman will permit, I will try to answer that question.

Mr. MANN. The gentleman is not chairman of that committee.

Mr. WEBB. What is the question the gentleman wants to ask?

Mr. NELSON. Name a single representative of any farmers' association who agreed to this amendment.

Mr. WEBB. I can not name a single representative of farmers' associations who is against it.

Mr. HENRY. I submitted this proposed language to the Farmers' Union of Texas and asked if it would satisfy the farmers, and they wrote back it was entirely satisfactory.

Mr. NELSON. Did the gentleman point out the effect of the language, "and not conducted for profit"——

Mr. HENRY. Yes; and I pointed that out and asked for suggestions, and they said they had no suggestions to make, because it was as plain as the English language could make it.

Mr. NELSON. Did the gentleman point out that it exempted no organization except those who came together for mutual discussion of methods, and that farmers' organizations that were conducted for the purpose of marketing their product should not be exempted?

Mr. MANN. Will the gentleman permit? Do I understand that Congress has abdicated its province and right of legisla-

tion and has gone into a searching committee to find out what certain organizations want, without any regard to the merits of the proposition?

Mr. NELSON. I was speaking of the statement of the chairman that farmers' organizations were not opposed to it, whereas I have received a number of telegrams from farmers' organizations protesting against it.

As soon as this amendment is disposed of, I wish to offer an amendment that, I think, will meet the approval of farmers' organizations.

Mr. WEBB. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from North Carolina?

Mr. NELSON. Yes.

Mr. WEBB. I have no protests filed with the committee. The committee received no protests against the provisions of this section which was put in the bill as section 7. I am reliably informed by gentlemen on the floor that the general counsel of the Farmers' Union very heartily indorses this amendment which the gentleman has just voted for and which seems to be acceptable to labor as well.

Mr. GARDNER Mr. Chairman, if the gentleman from Wisconsin has concluded——

Mr. NELSON. Mr. Chairman, has my time expired?

The CHAIRMAN. No; it has not.

Mr. NELSON. I want to say to the gentleman that in the committee I filed protests from organizations of farmers against the language that was then proposed to be inserted in the law and this new section, in effect, does the very same thing against which they protested at that time.

Mr. Chairman, I yield now, and shall offer an amendment and speak in my own time later on.

Mr. GARDNER. Mr. Chairman, I take the negative of the motion to strike out the last word for the purpose of asking a question of the gentleman from Kansas [Mr. MURDOCK].

Do I understand the gentleman from Kansas to portray the position of the Progressive Party in saying that he advocates the exemption of cotton planters' associations and woolgrowers' associations and associations gotten together for the purpose of enhancing the prices of the staples of life from the operation of the antitrust laws?

Mr. MURDOCK. I have made no statement about the growers of cotton or the growers of wool, and I have not spoken for anybody but myself this morning. But I will say to the gentleman from Massachusetts that I am in favor of a law here which will directly, in terms, exempt farmers' organizations and labor unions from the provisions of the Sherman antitrust law.

I do so because I believe, in the first instance, that labor is not a commodity, and because, in the second instance, I believe that agriculture is so highly individualized that it is in no sense a menace to society; and I believe that the Sherman antitrust law was passed not to reach the farmers' organizations, and not to reach the labor unions, but to reach monopoly, which thrives, by the way, more in the gentleman's district than it does in mine. [Laughter and applause.]

Mr. GARDNER. Possibly it is a fact that it does; but if you exempt cotton planters' associations and if you exempt woolgrowers' associations, and if you exempt these associations gotten together for the purpose of enhancing the cost of the necessaries of life, as is proposed by the Progressive Party in the proposition which has been brought forward by the gentleman from Michigan [Mr. MACDONALD], you will find that in the gentleman's district—have I the attention of the gentleman from Kansas?

Mr. MURDOCK. Yes.

Mr. GARDNER. You will find that in the gentleman's district in Kansas there will be more injury done to the people of the United States than in my district.

Mr GREGG rose.

The CHAIRMAN. The gentleman from Texas [Mr. GREGG] is recognized.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Is not debate exhausted on this amendment?

The CHAIRMAN. The Chair will state that it is. This debate is proceeding by unanimous consent.

Mr MANN. I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Michigan [Mr. MACDONALD].

Mr. GREGG. Mr. Chairman, I move to strike out the last word.

Mr. MANN. Mr. Chairman, I make the point of order that that amendment is not in order. We have already that amendment in the third degree.

Mr. GREGG. I move, then, Mr. Chairman, to strike out the last two words.

Mr. MANN. That is an amendment in the fourth degree.

The CHAIRMAN. The debate is exhausted on the pending amendment.

Mr. GREGG. Mr. Chairman, I ask unanimous consent to talk for three minutes.

The CHAIRMAN. The gentleman from Texas [Mr. GREGG] asks unanimous consent to proceed for three minutes. Is there objection?

Mr. MANN. I shall not object to this request, but I shall to other requests. The gentleman will get a chance later on to speak on these amendments.

Mr. GREGG. I wish to speak right on this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas [Mr. GREGG]?

There was no objection.

Mr. GREGG. Mr. Chairman, this provision, section 7 of the bill, even after the adoption of the Webb amendment, which was intended to improve the section, exempts from the operation of the antitrust laws only such labor, agricultural, and horticultural organizations, orders, or associations as have no capital stock or are not conducted for profit.

Now, if we are going to grant this exemption to the labor and agricultural orders and organizations, and everybody here seems willing to grant it, we should do it in such broad and unequivocal language as to give them the full benefit, which I am afraid this provision as written does not do.

Labor orders are organized not only to improve the hours and conditions of labor but also to increase their wages to the highest reasonable rate and to maintain them at that standard. This is right, and what I want them to have. I fear that under this section the courts will construe that the organization to increase and maintain their wages is for profit, and therefore that they are not exempt from the antitrust laws. Should the courts so hold, the labor organizations will not have received any benefit from this provision. I want to make it so plain that there can be no mistake that they are exempt.

Again, suppose that in the future it should become necessary for labor organizations in the conduct of their business to issue capital stock to raise money needed in their business; in that event they would at once become subject to the antitrust laws. We are not legislating only for the present and present conditions, but for the future and future conditions. We should not so hem them in that in the future they may not adopt such methods of conducting their business as may seem best to them.

What is the object of farmers' organizations? One of the main objects is by cooperation to secure the best market and price for their products. Should they agree not to sell their cotton, wheat, corn, or other products at less than a given price, I fear the courts would hold that they were an organization for profit, and under this provision as now worded they would not be exempt from prosecution and punishment under the antitrust laws. Thus would be destroyed one of their main objects for organization. I am not willing to subject them to any such danger.

Again, suppose an agricultural or horticultural organization in my county or anywhere else should, in addition to their other purposes, wish to organize for the purpose of erecting a warehouse and issue stock for that purpose, a thing which they have done in some cases, in order to have some place in which to store their products, while they are holding them for more favorable conditions in the market. Most of them are people of small means and not able by voluntary contributions to build warehouses, and if they should issue capital stock to build one, they at once, under the provisions of this section as worded, would become subject to the operations of the antitrust laws. Thus you force them either to expose their products to the weather or to rent warehouses possibly at exorbitant rent. For one I am not willing to do this, but want them to have the right by issuing stock or otherwise to build and own their own warehouses. If we are going to do anything for them, let us do it ungrudgingly.

The amendment offered by the gentleman from Kentucky [Mr. THOMAS] meets and obviates all the objections which I have pointed out, and I shall therefore vote for it.

Mr. THOMAS. Mr. Chairman——

The CHAIRMAN. All debate has expired.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent to ask the gentleman from Colorado [Mr. KEATING], if he will yield to me, a question, in view of the statement he made a while ago. [Cries of "Vote!" "Vote!"]

The CHAIRMAN. The gentleman from Kentucky [Mr. THOMAS] asks unanimous consent to proceed for two minutes. Is there objection?

Mr. MURDOCK. The gentleman from Colorado [Mr. KEATING] is not here. What are you going to ask him?

Mr. THOMAS. Wait, and you will find out. He is here.

Mr. Chairman, the gentleman from Colorado [Mr. KEATING] a few moments ago, in interrogating the gentleman from North Carolina [Mr. WEBB], stated that this amendment is just what organized labor wanted. Is it not a fact that organized labor wanted to exempt organized labor entirely from the operation of the antitrust law, such as is not here offered, and was not this Webb amendment simply the result of a compromise?

Mr. KEATING. If I had the time, Mr. Chairman, I would be very glad to answer that question.

Mr. THOMAS. That could be answered by yes or no.

Mr. KEATING. The amendment proposed by the gentleman from Kentucky [Mr. THOMAS]——

Mr. THOMAS. Mr. Chairman, I object to the gentleman's making a speech in my time. I simply asked him a question.

Mr. KEATING. I have to answer the question clearly. The amendment offered by the gentleman from Kentucky [Mr. THOMAS] was considered by the representatives of organized labor, and they decided that the proposition submitted by Mr. WEBB, of North Carolina, was a stronger proposition and more beneficial to labor organizations than the proposition submitted by the gentleman from Kentucky. [Applause.]

Mr. THOMAS. Is it not a fact that the Webb amendment was accepted by organized labor only after they came to the conclusion that they could not get the amendment that I submitted?

Mr. KEATING. The statement which I made—and I made it very deliberately, because it was repeated to me since this House met, by a leader of organized labor, who is qualified and authorized to speak for organized labor—was that the amendment as submitted by the gentleman from North Carolina [Mr. WEBB] was better, from the viewpoint of organized labor, than the Thomas amendment, which had been previously considered by the labor leaders. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. MACDONALD].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. MURDOCK. Division, Mr. Chairman!

The committee divided; and there were—ayes 51, noes 98.

Accordingly the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Kentucky [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I ask to have that amendment read for information.

The CHAIRMAN. If there be no objection, the amendment will be again reported.

The Clerk read as follows:

Strike out the first paragraph of section 7 as amended and insert in lieu thereof the following:

"The provisions of the antitrust laws shall not apply to agricultural, labor, consumers', fraternal, or horticultural organizations, orders, or associations."

The question being taken, the Chariman announced that the noes appeared to have it.

Mr. THOMAS. Let us have a division.

The committee divided; and there were—ayes 70, noes 79.

Mr. THOMAS. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chairman appointed Mr. THOMAS and Mr. WEBB.

The committee again divided; and the tellers reported—ayes 69, noes 105.

Accordingly the amendment was rejected.

Mr. BRYAN. Mr. Chairman, I offer an amendment.

Mr. NELSON rose.

The CHAIRMAN. Will the gentleman from Washington withhold his amendment. The gentleman from Wisconsin [Mr. NELSON], a member of the committee, will first be recognized.

Mr. NELSON. I desire to offer an amendment.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend the paragraph as amended by inserting after the word "profit" and before the words "or to forbid," in line 8, page 24, the following "or of cooperative agricultural associations formed for the purpose of buying more cheaply, and of marketing their products to better advantage," so as to make the first paragraph of this section read:

"That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural or horticultural organizations, orders or associations, instituted for the purpose of mutual help, and not having capital stock or conducted for profit, or of cooperative agricultural associations formed for the purpose of buying more cheaply and marketing their products to better advantage, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof; nor shall such organizations, orders, or associations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

Mr. NELSON. Mr. Chairman, I ask permission to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. NELSON. Mr. Chairman, this House has now done justice to labor organizations, and I am very glad of it. As a member of the committee I earnestly did all I could to secure this result in our report from the committee. I am not going into any argument on this feature of it. I discussed it fully in the report made from the committee and in the speech I made to the House.

I now want to appeal to the House to do justice to the farmers' associations of our country. I want to say to you that this section does nothing for the farmers except to permit them to come together to discuss better methods of farming. Of course, such organizations never were under the Sherman antitrust law; but the language of this section is carefully selected, and in defining the associations that are exempt it says that if they have capital stock or are conducted for profit, then it will not take them from under the ban of the law. This does not legalize organizations of farmers cooperatively buying supplies or selling their products, but may have the effect of clearly rendering them illegal.

Now, gentlemen, I want to impress upon you the importance of business cooperation on the part of farmers in this country and in foreign countries, and at the risk of tiring you a little I wish to call your attention to this voluminous report——

Mr. LEWIS of Maryland. Will the gentleman from Wisconsin yield?

Mr. NELSON. Yes.

Mr. LEWIS of Maryland. Would not the effect of the permission to organize cooperative associations be to repeal the word "profit" and the words "capital stock" in the clause as perfected up to this time?

Mr. NELSON. Let me say to the gentleman that as I drew this amendment first, to get at this difficulty I struck out the words "not having capital stock and not conducted for profit"; but those words may be necessary with reference to other organizations that might pretend that they were fraternal, or horticultural, or something of that kind. So I have amended this and made a separate classification, specifically exempting agricultural associations that are cooperative, but leaving in the limitation "not having capital stock and not conducted for profit" as to these other organizations.

Mr. LEWIS of Maryland. I will ask the gentleman whether the qualification he desires to make would not open the gate to commercial organizations that the antitrust laws were originally designed to prevent?

Mr. NELSON. I think not. They would have to be shown to be bona fide agricultural associations, and, of course, any sham would be exposed in court.

Now, I wish to call attention to this volume, Senate Document No. 214, Agricultural Cooperation and Rural Credit in Europe. It contains nearly 1,000 pages of testimony taken by a double commission, an American commission consisting of delegates from various States and from Canada, and a United States commission. On the American commission were men appointed from nearly all the States and from the Provinces of Canada, and there was a United States commission consisting of Members of this House and the Senate. Both commissions have made extensive reports which have been printed as public documents. I wish briefly to read a few extracts from the very excellent report of the American commission, which will show you what this movement is.

The person who goes among European farmers for the first time will be impressed with the fact that cooperation is the most important thing about European agriculture. It is, of course, not true that all the farmers band themselves together, and yet that is a very common way of doing farm business. Farmers buy together, sell together, borrow and lend together, insure together, own machinery together, and in some cases actually carry on a farm together. There are 25,000 cooperative societies of various kinds in Germany alone. It is really astonishing to see the extent to which the farmers, particularly the small farmers, have accomplished results which would have been impossible if each farmer had depended upon himself.

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The last sentence is the key to much of the success of the European farmer. He found that alone he could do nothing; together with his fellows he could do a great deal. He proved that one and one are more than two; at least, that two people who work together can accomplish a great deal more than two people who work separately. Hence was formed a habit of doing collectively what farmers had been doing singly and alone, and it was found that as the farmers became accustomed to doing business in this way it proved to be the better way. So gradually at first the method spread. It is important to know that there has been a greater development of cooperation in practically all the Eu-

ropean countries in the last 10 years than in any previous period in the history of the movement.

As to the extent of cooperation in Europe, the commission said:

The commission visited a dozen countries, and in every one they found active agricultural cooperation. They were not able to visit some countries, as, for example, Bulgaria. But so far as could be learned, with the possible exception of Turkey, there is not a single country in Europe that has not developed a more or less complete system of agricultural cooperation.

There are many more interesting and striking paragraphs to which I would call your attention, showing the enthusiasm which farmers in Europe are showing for cooperative movement. Time will not permit me to read them.

Speaking of cooperation in the United States, it said:

There is in the United States as a whole considerable successful business cooperation in agriculture. The fruit growers of the West through their selling societies, the grain growers of the Central West in their cooperative elevators, the dairymen of the Northwest in their cooperative creameries, the vegetable growers of the eastern coast in their selling societies, the many mutual insurance societies, and the great numbers of cooperative country stores are doing a successful business and are increasing rapidly.

Again, under the head of "Cooperation and its application to the United States and Canada":

Nevertheless the American farmer should gradually, even if slowly, give up the individual method of doing his business and take up the collective method. Otherwise he can not hold his own except in the comparatively few cases of the very large and well-to-do farmers. The great masses of farmers will soon be perfectly helpless in their business relationships unless they can, by collective effort, place themselves on a par with other business men.

Under the head of "Cooperation and the consumers," the report of the commission says:

The immediate purpose of cooperation is a more effective and less expensive means of distributing the products which the farmer grows to the individuals who finally consume them. At present the farmer gets too little of what the consumer pays and probably the consumer pays more than he ought to. Cooperation between producers and cooperation between consumers ought to increase the price to producers and decrease the cost to consumers.

Now, I wish to call your attention to what some gentlemen said to the committee on this subject, and I am surprised to see that the committee has deliberately ignored their recommendation.

Mr. FARR. May I ask the gentleman a question?

Mr. NELSON. Certainly.

Mr. FARR. Will the Webb amendment prevent the cooperation which the gentleman desires?

Mr. NELSON. Unquestionably; it permits nothing except that the farmers can come together and discuss better methods. The moment that they cooperate they must have shares of stock, and it will be considered that they are conducting the organization for profit, and therefore this section does not apply to them.

Mr. GARDNER. Will the gentleman yield?

Mr. NELSON. Yes.

Mr. GARDNER. Would not it be possible to amend the gentleman's amendment in such a way as to permit a farmers' organization with capital stock, if it so desires, to purchase more cheaply, without opening the door to such an organization to market its products at a price indicative of a combination in restraint of trade?

Mr. NELSON. I think not. But answering that question, the gentleman is fearful of something of which there is no danger of at all to the country. The farmers handle perishable products, and they only hold it over so that it will not be sold when the market is glutted. In the fall they assist each other in reaching a better period of the year. Moreover, the farmers are all hard up, they must have money, they can not hold it over very long. Cooperative marketing merely enables them to find a better market. There is no danger that the farmers of the country could go to such an extent that they would practically monopolize any product.

Mr. GARDNER. Will the gentleman yield?

Mr. NELSON. Certainly.

Mr. GARDNER. Did I understand the gentleman to say that cotton and wool are perishable products?

Mr. NELSON. I did not say so.

Mr. GARDNER. Or potatoes?

Mr. NELSON. Are not potatoes perishable products?

Mr. GARDNER. Not particularly.

Mr. MANN. What does the gentleman from Massachusetts know about potatoes?

Mr. NELSON. It shows what he knows about farming. Now, Mr. Chairman, I want to show you what you are doing. President Van Hise says——

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. NELSON. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. The gentleman from Wisconsin asks for five minutes more. Is there objection?

Mr. CARLIN. Reserving the right to object, I want to say that we have been discussing this provision for an hour and a half. How much longer does the gentleman want?

Mr. MANN. We would like at least a half an hour on this side.

Mr. CARLIN. Can we agree upon an hour on this paragraph and all amendments thereto?

Mr. MANN. Are there any other amendments to this paragraph on this side?

Mr. BRYAN. I have an amendment, and I want five minutes on it.

Mr. CARLIN. Can we agree that all debate on this paragraph and all amendments thereto shall be concluded in one hour?

Mr. MANN. We want a half an hour on this amendment, and then the gentleman from Washington wants five minutes on his amendment. That is, on this paragraph and all amendments thereto.

Mr. FERRIS. That does not mean the whole section?

Mr. MANN. No.

Mr. CARLIN. Mr. Chairman, I ask unanimous consent that all debate on the first paragraph of this section and all amendments thereto shall be included in 70 minutes—35 minutes to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and 35 minutes by the gentleman from North Carolina [Mr. WEBB].

The CHAIRMAN (Mr. WILSON of Florida). The gentleman from Virginia asks unanimous consent that all debate on the first paragraph and amendments thereto close in 70 minutes—35 minutes to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD] and 35 minutes by the gentleman from North Carolina [Mr. WEBB]. Is there objection?

There was no objection.

Mr. CARLIN. In that agreement is the 10 minutes which the gentleman from Wisconsin has already used included?

Mr. NELSON. No; that is in addition to what I have used. I was interrupted. I had no chance to read but a small part of what I wished to.

Mr. CARLIN. Then that will give that side 45 minutes and our side 35 minutes.

Mr. VOLSTEAD. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. NELSON].

Mr. NELSON. Mr. Chairman, President Van Hise, of the University of Wisconsin, in speaking about the Sherman law and other things before the Committee on the Judiciary, used this language:

The law that stands in the way of beneficent cooperation of this kind should be modified so as to permit that useful and beneficial cooperation. Now, this rising tide, this pressure, has come upon us so that we have increased our force in the department of economics very materially, and there are always farmers in 15 or 20 communities that want instruction along this line; and in this way the cooperation among farmers is increasing in Wisconsin, Nebraska, California, and in many of the States of the South, and in a few years it will sweep over the entire country and we shall have cooperation among the farmers along all lines in the handling of their products. They have now, in the handling of eggs, an association similar to that for the handling of cranberries in Wisconsin and the citrous-fruit growers of southern California, and under the circumstances it is questionable whether it will be quite so popular a political position to attack cooperation among the farmers.

And I may add that in Wisconsin not only do the cranberry growers cooperate in marketing their products, but the cheese producers, the tobacco raisers, and the potato growers as well.

President Seth Low, of the Civic Federation, an educator, came before the Committee on the Judiciary and, speaking of this very law, which was a ban upon the farmers, he said:

For the last seven years or more I have been carrying on a farm at Bedford Hills in New York. In doing that I very soon became aware of what, I think, is the fundamental problem of the farmer. I am speaking now of the small farmer; it does not affect me at all or other men with capital. But the fundamental problem of the farmer, certainly in the eastern part of the country, and, I suspect, more or less all over the Union, is this: That he buys at retail and sells at wholesale. He has to pay retail prices for everything he gets and then has to take wholesale prices for what he sells. I submit to the committee that there is not another business in the country that can do that. Imagine what would happen to any manufacturer, or any railroad, if they had to pay retail prices for coal and everything that they purchased, and then had to sell their product at the wholesale price of the day. That is the problem with which the farmer is confronted. That was the problem that confronted Denmark and all the European countries. In Europe, where the pressure has been greater, they have solved it through cooperation. They form cooperative societies which have two objects. In the first place, they want to buy together so as to get things at wholesale rates instead of at retail rates; then they want to sell together, so that they can get the benefit of businesslike care in the handling of their products.

Mr. CARLIN. How has that affected the consumer?

Mr. LOW. The consumer does the same thing; he combines to buy direct and at wholesale. As I was going to say to you, however, these cooperative associations on the part of consumers would be absolutely

forbidden under this proposed law. The details of cooperation are a little different in almost every country. England is especially notable for these cooperative associations of consumers.

Further on he said:

I do not believe that the farmer ought to have rights that other Americans have not; but I do think they are entitled to form cooperative societies and to agree to give to them all their business for the purpose of purchasing more cheaply together and for the purpose of selling what they produce to better advantage.

* * * * * * *

I think you will recognize the propriety of cooperative associations of consumers as well as of producers; because they certainly have the right, or ought to have the right, to buy together for the purpose of getting things more cheaply, just as producers should have the right to combine together for the purpose of getting better prices for their products. It is very vital, of course, as far as the farmers are concerned and in its effect upon agriculture. You take these gentlemen in Kentucky who raise tobacco; they can not afford to raise tobacco unless they can get an adequate price; and it is the same way with every other producer. You must encourage generous production by enabling the producer to get all that his goods are worth. I come right back to what I said at the beginning, that the trouble with the farmer is that he has to buy at retail and sell at wholesale. That is not reasonable; and cooperative societies are formed to change that, so that under cooperation the small farmer can get his plow as cheaply as the man who has a bigger business. That must be encouraged. When cooperation is thoroughly well developed, a man who produces a small amount of tobacco can get as good a price as the man who raises a great deal of tobacco.

In answer to the argument that the legalization of cooperative organizations among farmers amounts to class legislation Seth Low said:

Now, what I want to point out is that those people do not combine, either the consumers or the farmers, for the purpose of monopoly. Not a single cooperative association aims at monopoly; it aims at something very different. What it wants to do is to enable the small farmer to buy his plow, to buy his fertilizer, and buy his seed at prices that a man with capital has to pay and at no higher prices.

Mr. Low offered the following suggestions to the committee, as to how the bill ought to be amended so as to legalize cooperative buying and selling by organizations of farmers:

I am not a lawyer; and, with all respect to the lawyers who have suggested this language, I think it would be better to change that phraseology so as to permit in terms the formation of such cooperative associations of producers and of consumers, because I think they have, and ought to have, the right to combine in order to buy more cheaply—to buy at wholesale and distribute economically what they produce.

* * * * * * *

Yes; that would be my suggestion; and I think in that way you would avoid a sort of criticism which I have seen aimed at this bill—that it is class legislation. It is not class legislation if you word it right. I do not think anybody can say it is class legislation to say that laboring men can have the same right to combine for collective bargaining as stockholders have. That is good sense; it is not class legislation. Neither is it class legislation to say that farmers and consumers can combine for the sake of buying more cheaply or selling to greater advantage. That is not class legislation; everybody ought to have that right.

Mr. Chairman, I use the language suggested by Seth Low in this amendment, specifically relieving these cooperative associations from the Sherman law; and that is the only effect the amendment will have.

I have nothing further to add but to repeat that there is a difference between organizations of farmers and monopolies. They are not only different, but are radically opposite. The farm organization is in existence to protect itself from the other. The farm organization is the only way possible for the farmer to protect himself against the oppressions of monopolies and trusts. The farmer deals with his own labor, the product of his life—it is inseparable from him—while the monopolist deals with the capital and credit of others. Monopoly is oppressive, and exacts tributes; but there is not a single case on record where a farm organization has ever practiced oppression upon the consumers, and it is impossible, as I have pointed out. We who have been brought up with farmers, and know what these associations are doing, know that they can not keep their goods; they can not organize so that they can practice oppression.

Mr. WEBB. Mr. Chairman, will the gentleman yield?

Mr. NELSON. Yes.

Mr. WEBB. Does the gentleman think it would be right to allow the cotton farmers of the South or the corn raisers of the West to form corporations whereby they could hold, corner, or monopolize the entire cotton crop or corn crop of the season and compel the world to pay them 25 or 30 or 40 cents a pound for it, or $2 a bushel for corn, and clean up two or three hundred millions of dollars? Does the gentleman think that would be right? I want to get his opinion.

Mr. NELSON. Mr. Chairman, I want to say to the gentleman that I have had that query propounded to me by the gentleman before, and this is my candid judgment. The gentleman is conjuring up an imaginary evil.

Mr. WEBB. Oh, no.

Mr. NELSON. Wait one moment, until I answer the question. If these cotton growers are like the farmers of the Northwest, and I do not believe they are any more thrifty, they can not afford to hold their crops to any such extent. They must dispose of them within a reasonable time to meet the payments of interest and principal on mortgages, and their tenants oftentimes have the results of their toil to live on during the year. The gentleman takes one specific crop. He can make an exception, but the vast quantity of products of the farm are perishable, and there is not a particle of danger; and I will ask the gentleman if his question does not imply that he is not exempting the farmers from the operation of the Sherman law if they have shares of stock or are conducted for profit?

Mr. WEBB. I do. I do not think they ought to be exempted if they form great corporations for profit.

Mr. NELSON. And the gentleman has not exempted them.

Mr. WEBB. No; and I want to say further that when the farmers or any other class of men form a corporation for profit, to pay dividends, and undertake to monopolize any product in this country they ought to come within the Sherman antitrust law, and I would hate to live in a country where that sort of thing did not prevail, and the farmers in my district view this matter just as I do. They do not want to violate law or good morals. They want a fair deal and yield the same to others.

Mr. NELSON. If you have not taken them out, what sort of farm organizations have you taken out of the ban of the law?

Mr. WEBB. Mutual organizations, such as generally exist to-day among them.

Mr. NELSON. That have no capital?

Mr. WEBB. Certainly.

Mr. NELSON. But get together to discuss better methods?

Mr. WEBB. Yes. Has the gentleman any metaphysical scissors that will tell us the difference between the man who forms corporations for monopolistic purposes and the man who spins in the factory or the man who raises sheep?

Mr. NELSON. Can the gentleman name a single instance where any cooperative farm organization has practiced oppression upon the country?

Mr. WEBB. That is not the question.

Mr. NELSON. You have denied this right because you have conjured up an imaginary case with the cotton growers.

Mr. WEBB. Mr. Chairman, I want to say this: I have never had a farmer, whether he raises corn or wheat or oats, ask me to give him a right that he would not have given to every other man in the country. They are an honest set, and ask for no special privileges.

Mr. NELSON. That is what I am insisting upon—not special privilege, but equal rights. You permit capital in any quantity to avail itself of this cooperative principle. They can put their money together, and the money is represented by capital stock, but you deny the farmers of this land the right to do the same.

Mr. WEBB. Oh, we do not at all.

Mr. NELSON. The gentleman says that they can do it, but he knows that they can not very well. The farmer wants to keep his individual farm. He does not want to hold it under a corporation. He wants to be independent, but he wants to cooperate with other independent farmers in buying supplies and in marketing his products without being under the ban of the law—without being a criminal. This you do not permit him to do.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. MORGAN of Oklahoma. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. BROWNE].

Mr. BROWNE of Wisconsin. Mr. Chairman, I am in favor of the amendment offered by my colleague, Mr. NELSON, of Wisconsin, which provides that all cooperative agricultural associations formed for the purpose of buying more cheaply and marketing their products to better advantage shall not be construed to be illegal combinations in restraint of trade under the antitrust laws.

Section 7 of this bill, as it now stands, does not exempt any agricultural, horticultural, or cooperative association that is organized for profit or has capital stock.

A great many, I believe, that voted for the Webb amendment did so with the understanding that it exempted from the operation of the law the bulk of the farm organizations, but the gentleman from North Carolina, who drew the amendment, now admits that it was not so intended and does not exempt any farm organization which has capital stock or which is organized for profit.

So the issue at this time is well defined, and it means that if this law is passed without the Nelson amendment that all farmer organizations and cooperative associations that are organized for profit or have capital stock will be prevented from doing business.

At least 75 per cent of the farmer organizations in the United States are organized for profit and have capital stock.

WISCONSIN FARMERS HIT BY THE PROPOSED LAW.

In Wisconsin all our creameries are organized by farmers and our farmers' cooperative organizations are organized for profit, and have capital stock, and would be prohibited from doing business under this proposed law.

The Sherman antitrust law was never intended to apply to farm organizations, and it was not applied to them until it had been in operation many years.

In the famous Kentucky Tobacco case, where the farmers attempted to pool their tobacco so that they could get a fair price for it, a complaint was made, and they were indicted and fined $3,500. The complaint was instigated by a combination that desired to distract the attention of the country from the Beef Trust and other prosecutions and make the Sherman law unpopular so it would be repealed.

PURPOSE OF ANTITRUST LAWS.

The antitrust laws were enacted for the protection of the people from monopoly; that is, to prevent speculators from cornering a product and exacting a profit from the consumer many times larger than the amount of labor they placed upon it.

Whoever heard of the farmers of the country getting a monopoly on wheat, potatoes, corn, oats, or dairy products? We all know that there is no danger of the producers scattered all over the United States getting a corner on farm products and selling them at exorbitant prices. We know that the farmer has not the capital; that he is not brought in close enough contact with his neighbor a thousand miles away to corner the market; and that the corn grower in Illinois and the corn grower in Iowa, the potato grower in Maine and the potato grower in Wisconsin could not cooperate so as to control the market.

Cooperation among farmers, with the greatest encouragement the different States and the United States can give, can never possibly be more than local cooperation extending over a few townships or counties.

The antitrust laws are enacted to prevent vast aggregates of capital handled by men in the great centers of population *cornering the market*, controlling the necessities of life, taking advantage of the producers' necessities and buying at a low figure, sometimes below the cost of production, and without changing the product simply by transporting it and storing it, exacting an outrageous profit from the consumer, a profit out of all proportion to the amount of labor expended, and in many instances amounting to more than the total amount received by the real producer.

The Meat Trust is a conspicuous example of the monopoly the antitrust laws are aimed at.

COOPERATION OF FARMERS IN WISCONSIN.

The dairy farmer, through cooperation, is receiving no more than he ought to for his product, but is getting what the consumer is paying less the fair cost of making the butter and cheese and the handling and selling of it. With all other farm products from 35 to 45 per cent of what the consumer pays goes for transporting, handling, and distributing the article.

The cooperative cheese factories in Sheboygan County, one of the great cheese counties in Wisconsin, have an organization for the sale of their cheese, and they are receiving 3 or 4 cents per pound more than the cheese producers in the State of New York, and yet the consumer gets his product cheaper than he does in that State, showing that cooperation of the farmer not only helps him as a producer but also helps the consumer.

The Agricultural Department is expending large sums of money to very good advantage in showing the farmer how he can raise more bushels of grain per acre. In addition to this, it should assist him in marketing his farm products, encouraging him to cooperate, so that he can get a fair profit for the crops that he raises.

There should be no doubt about the law as to it allowing the farmer to cooperate to the fullest extent. It should be so plain that no one would question it, and the adoption of the Nelson amendment will make it so.

The legislative committee from the Society of Equity, of Wisconsin, representing 12,000 farmers, are not satisfied with the proposed law as it now is.

I offer a letter written by Charles A. Lyman, J. Wes. Tubbs, and D. O. Mahoney, legislative committee of the Society of Equity, regarding section 7 of this bill, a similar letter having been sent to the Hon. JOHN M. NELSON:

AMERICAN SOCIETY OF EQUITY,
Madison, Wis., May 23, 1914.

Hon. EDWARD E. BROWNE,
House of Representatives, Washington, D. C.

DEAR SIR: Our society, 12,000 strong, is counting on you at this time to champion the cause of agriculture in Wisconsin, which has already suffered from tariff legislation, by leading in enacting laws favorable to cooperation.

Be sure to provide in impending antitrust legislation for free and unhampered cooperative action in assembling, grading, standardizing, packing, storing, and marketing farm products.

Agriculture must be permitted to do its business cooperatively and business can not be done without capital.

Would not a general provision permitting all cooperative business activities where all profits above operating expenses are returned to the patrons—producers and consumers—solve the problem? Anyway it must be solved to save our greatest and most important industry, to effect economies in distribution, and to protect consumers from unlimited exploitation.

CHARLES A. LYMAN,
M. WES. TUBBS,
D. O. MAHONEY,
Legislative Committee.

DEMOCRATIC PARTY CAN NOT AFFORD TO BE UNJUST TO THE FARMERS.

This Congress and the Democratic Party can not afford to strike a blow at the great agricultural interests of this country like the passage of this law will.

The Democratic Party in the solid South may be able to roll up its customary majority regardless of its attitude toward the farmers, but the citizenship of the great northern and western agricultural States do not inherit their political faith. They are not voting a party ticket because their fathers and grandfathers did, but are holding the party in power to a strict accountability.

THE DEMOCRATIC PARTY HAS NOT DEALT FAIRLY WITH THE FARMERS.

I charge the Democratic Party with not dealing fairly with the farmers of the North and West.

I ask, What have you done for the farmers who, during the last crop year, produced nearly $10,000,000 worth of wealth?

You have appropriated $141,000,000 for battleships. You have appropriated $100,000,000 for the Army, although you spent almost two weeks' time making speeches on the Winston Churchill peace resolution. You have appropriated $44,000,000 for rivers and harbors.

You have done all this after talking economy and accusing the former Republican administration of being extravagant.

The 12,000,000 farmers of this country have received very little consideration at your hands.

NOTHING FOR GOOD ROADS.

The $25,000,000 appropriation for wagon roads that passed this House in February is sleeping the peaceful sleep of death in one of the committees of the Senate.

RURAL CREDITS SHELVED.

The farmers of the country demanded and were promised by this administration a law that would enable them to borrow money at a lower rate of interest and on easier terms. This would help the farmer in moving his crops and enable the tenant farmer and the young man with small capital to become the owner of a farm with a fair chance of paying for it.

Many wanted rural-credit legislation to be written into the banking and currency law, where it could have been appropriately placed, but "the powers that be" said no, and it looks as though rural-credit legislation had been relegated with the other broken promises of the Democratic Party.

UNDERWOOD TARIFF DISCRIMINATES AGAINST THE FARMERS.

By taking off the tariff on farm products you have opened wide the doors of the great home market of the United States to the farmers of the world and invited them to dump their surplus.

Argentina, since the tariff bill went into effect, has sent millions of dollars' worth of butter, beef, and corn into the United States.

Canada, which has more acres of agricultural land than the United States, is already in competition with us.

Prof. Charles McCarthy, reference librarian at Madison, Wis., an authority upon the subject, says:

A year ago when I made the statement that the farmers would be in a bad way unless they organized to meet the low tariff some laughed at the statement. Verification of what I said then now comes from other sources.

The president of the Chamber of Commerce of Manchester, England, says:

In three short months all the surplus cattle of Canada have been sold to American buyers. Imports of chilled meats in New York quickly became an established trade. Canadian cream and milk has been sold to such a large extent that there is practically no Canadian butter for export and the quantity of cheese for this market will rapidly diminish. New Zealand butter is also finding an outlet to America.

Dr. McCarthy says:

My statement is borne out by these facts. The farmers should begin to organize for better marketing and production as their only hope to meet the increased competition. We now have what are practically summer prices for butter. I believe this also demonstrates that organization is necessary or our farm industries will eventually go to the wall.

OVERPRODUCTION.

Every farmer knows that we have a surplus crop of some farm product almost every year, which brings down the price of that product below the cost of production.

Overproduction will be a frequent occurrence with no tariff on farm products.

We sometimes think that the United States is the only agricultural country.

Germany raises on an average of from six to seven times the amount of potatoes raised by the whole United States.

Last year the United States raised 331,525,000 bushels of potatoes against Germany's 1,988,591,308 bushels of potatoes. Ireland raised 139,602,358 bushels of potatoes, Canada 78,544,000 bushels, and many other countries raised a large quantity of this product.

It should be remembered that potatoes can be shipped from these countries to our sea ports on the Atlantic sea coast and to our southern ports for from 6 to 8 cents a bushel, about as much as it costs the average farmer to haul his potatoes to the nearest railroad station.

In the year 1913 Russia raised 700,000,000 bushels of wheat; France, 350,000,000 bushels; British India, 280,000,000 bushels; Germany, 138,000,000 bushels; Canada, 170,000,000 bushels; and Argentina, 135,000,000 bushels.

They are shipping eggs to this country from far-away China. In the month of December, 1913, 1,514,296 dozen of eggs, valued at $334,315, were shipped to this country. Under the 5-cent duty on eggs no importations were made.

The importation of corn has increased from 25,819 bushels to 1,632,643 bushels in November, and from 638 bushels to 2,343,444 bushels in December, and in the case of fresh meats of various kinds the importations have advanced from nothing under the old tariff to a total of 16,029,189 pounds under the new.

This shows a surrender of our market to foreign importers.

THE CONSUMER HAS RECEIVED NO BENEFIT.

If anyone will send for Government Bulletin No. 138, issued by the United States Bureau of Labor Statistics, they can get the retail prices of the principal articles of food in each of the 40 important cities throughout the United States.

This bulletin shows that the retail price of the 15 staple articles of food were increased over the same months the year before the tariff went into effect.

I herewith attach statement from this Government bulletin:

Comparing retail prices on October 15, 1913, with prices on the same date 1912, 13 of the 15 articles for which quotations are given advanced and 2 declined in price. Potatoes advanced 42.3 per cent, eggs advanced 14.2 per cent, round steak advanced 12.9 per cent, ham advanced 10.6 per cent, rib roast advanced 8.8 per cent, sirloin steak advanced 8.3 per cent, bacon advanced 8.2 per cent, hens advanced 7.5 per cent, pork chops advanced 6.3 per cent, butter advanced 3.7 per cent, milk advanced 2.7 per cent, corn meal advanced 1.7 per cent, and lard advanced 1 per cent. Sugar declined 8.8 per cent, and flour declined 2.6 per cent.

When the price of each of the articles of food is weighted, according to average consumption in workingmen's families, retail prices were at a higher level on October 15, 1913, than at any other time during the last 23 years and 10 months. Retail prices of food on October 15, 1913, were 70.9 per cent above the average price for the 10-year period, 1890 to 1899; 7.9 per cent above the price on October 15, 1912, and 16.9 per cent above the price on October 15, 1911.

The cities for which actual prices are shown are Atlanta, Ga.; Baltimore, Md.; Birmingham, Ala.; Boston, Mass.; Buffalo, N. Y.; Charleston, S. C.; Chicago, Ill.; Cincinnati, Ohio; Cleveland, Ohio; Dallas, Tex.; Denver, Colo.; Detroit, Mich.; Fall River, Mass.; Indianapolis, Ind.; Jacksonville, Fla.; Kansas City, Mo.; Little Rock, Ark.; Los Angeles, Cal.; Louisville, Ky.; Manchester, N. H.; Memphis, Tenn.; Milwaukee, Wis.; Minneapolis, Minn.; Newark, N. J.; New Haven, Conn.; New Orleans, La.; New York, N. Y.; Omaha, Nebr.; Philadelphia, Pa.; Pittsburgh, Pa.; Portland, Oreg.; Providence, R. I.; Richmond, Va.; St. Louis, Mo.; St. Paul, Minn.; Salt Lake City, Utah; San Francisco, Cal.; Scranton, Pa.; Seattle, Wash.; and Washington, D. C.

STAGNATION IN BUSINESS.

President Wilson, when interviewed May 28, 1914, on the business depression throughout the United States, said:

That while he was aware of the present depression of business, there was abundant evidence that it was merely psychological; that there is no material condition or substantial reason why the business of the country should not be in a most prosperous and expanding condition.

The most conservative authorities upon the unemployed say that there are from one and one-half to two million men out of employment in the United States. These conditions seem due to something more than a state of mind, as indicated by the President.

When our laboring people are out of employment they cease to become consumers, and this injures the markets of the farmer.

Every man, woman, and child in the United States consumes 4.7 bushels of wheat a year, which is equivalent to a barrel of flour a year, while in Russia the consumption of wheat is 2.6 bushels, and in India seven-tenths of a bushel of wheat is consumed by the average inhabitant.

The American people are better clothed and better fed than any class of people in the world, and therefore the 100,000,000 inhabitants of America afford the best home market for the farmers of any country in the world.

FOREIGN CONVICT LABOR COMPETITION.

A recent investigation establishes the fact that there are 2,441,000 convicts in foreign prisons competing with our American workmen. This convict labor is being sold by the countries where the prisons are located at from 5 cents to 25 cents per day. The foreign manufacturer who buys this labor has no rent, storage, light, heat, or power to pay for in the majority of cases. These convicts are manufacturing practically every kind of article that is being manufactured abroad, and these convict-made goods are coming to the United States under the Underwood tariff law in unrestricted competition with goods manufactured by our American labor.

It is conservatively estimated that the annual output of foreign convict labor amounts to $560,000,000 per year.

No wonder our imports are steadily increasing and our exports are falling off.

EXPORTS FALLING OFF.

Official figures from the Department of Commerce show that under the heading of "Manufactures for the further use in manufacturing" our exports have fallen off $5,100,000 in the single month of April, 1914, compared with the corresponding month of the previous year.

I voted against the passage of the Underwood tariff bill, and in doing so I said, in a speech I made against it, that the passage of that bill would be a reversal of a great industrial policy of the United States, an industrial policy which has brought us great prosperity.

If this prosperity continues under the new industrial policy of "tariff for revenue only," it will be the first time in our country's history.

The Underwood tariff bill has been in force less than nine months, but in that brief space of time it has proven such a failure that there is an overwhelming sentiment against it.

I can not vote for the so-called "Clayton antitrust bill" in its present form, with a discrimination against farmer organizations. I am disappointed in the bill in this and other particulars, and hope it may be amended by the adoption of the Nelson and other amendments.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HULINGS. Mr. Chairman, if I am in order I desire to offer an amendment to the second paragraph——

The CHAIRMAN. The time has been fixed.

Mr. HULINGS. A parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HULINGS. What is before the committee?

The CHAIRMAN. The committee is considering the first paragraph and debate has been fixed at 70 minutes. The gentleman can offer his amendment later.

Mr. MORGAN of Oklahoma. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. LA FOLLETTE].

Mr. LA FOLLETTE. Mr. Chairman, I do not know as I desire to use five minutes on this question, but I do want to say that, in my opinion, the framers of the Sherman antitrust law never dreamed that at any time it would be used as an instrument to oppress either organized labor or farmers' associations. It would seem, at first thought, when you come down to the legal or ethical point, that farmers' organizations, if incorporated, should be controlled as any other corporation; but when we take into consideration the slight chance of controlling commodities of universal production it would seem to be impossible for the farmers as a class to organize and get their product in such shape they could so control it as to become a monopoly. They can cooperate to such an extent they can keep from becoming the prey of commission and unprincipled middle men. That has been the main object of farmers' societies and farmers' cooperative associations. It has been to try to get at least a fair share of the profit of their toil and a fair share of the money that the consumer pays. I have seen before the days of farmers' cooperative associations when they have had a hard time to make a living, and after they had established the cooperation that they had bettered their condition.

It seems to me that no one should desire to see them put at the mercy of either the commission men or the middle men who prey on them, and that is the reason I think that the farmer, who is the largest in number of any one class in our country, should have the benefit of some fair laws and some fair consideration. I do not think that the farmers as a class want any special legislation or any marked favor. Neither do they de-

sire to be put in a class where, without any chance to form a monopoly, they can be accused of attempting to monopolize trade and be harassed, as they can be, if we leave this bill in its present form. That should not be done. They should not be harassed and forced out of business or forced back into the old ruts that they had to follow before they commenced to cooperate, and I think if you put this measure on the statute books in its present form that so far as the American farmer, the principal class in numbers in this country is concerned, you are taking a step backward and injuring him instead of benefiting him. [Applause.] I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back one minute.

Mr. NELSON. Mr. Chairman, I yield seven minutes to the gentleman from Nebraska [Mr. SLOAN].

Mr. SLOAN. Mr. Chairman, I desire to say in this behalf that I have consulted three Members of the Committee on the Judiciary and was informed that no representative of the farmers came before that committee and demanded this legislation or any part of it. The facts are that the farmers' part in this bill is simply to be used as a stalking horse to obtain other features of this legislation. Well was it said—I noticed the gentleman from Pennsylvania [Mr. CASEY] in his maiden speech said it—that that side of the House was redeeming its pledges, in that ancient and stately joke perpetrated and promulgated at Baltimore, to the farmers and laborers. I desire to speak about it, especially relating to the trust feature, and in support of the Nelson amendment, which seeks to give at least a measure of the favor professed in this bill but in fact withheld.

So far as the farmers are concerned, this is the second installment of the so-called favorable trust legislation. The first installment was presented in the Underwood tariff bill, the sponsors of which claimed it to be a fulfillment of the tariff plank of the Baltimore convention. That plank stated the general Democratic policy for tariff revision downward as follows:

> We favor the immediate downward revision of the existing high and, in many cases, prohibitive tariff duties, insisting that material reductions be speedily made upon the necessaries of life.

You will note that it stood for a reduction of duties rather than a removal of duties. The bill was said to be one for revenue only. In a subsequent clause it provided that certain articles should have the tariff removed absolutely and placed upon the free list, the following being the language used:

> Articles entering into competition with trust-controlled products and articles which are sold abroad more cheaply than at home should be put upon the free list.

This is the only authority for expansion of the free list found in the Baltimore platform. In the Underwood bill there was a large expansion of the free list. Eighty per cent of the value of all the American products placed upon the free list and which were not on the free list under the Payne law were products of the farm, so that the majority of this House considered farm products as being in competition with trust-controlled products or were sold abroad more cheaply than at home.

Every farmer in the United States knows that neither one of those statements are true, so that in the name of antitrust legislation a most gigantic imposition was perpetrated upon the farmers of this country.

Two statements are surprising to the country. First, that the farmers' products are trust produced or in competition with trust-produced articles; second, that farmers' products are sold abroad cheaper than at home, and yet these two statements are the only basis for the free listing of nearly all the products of the Northwest.

And now they come in with their second installment of trust legislation for the farmers, and while the first installment was an imposition this one is a fraud. They first include the farmer organization with the laboring men in section 7. Here they pretend to preserve for the farmers, laboring men, and horticultural associations special privileges. But they are preserved only while in a state of repose so far as the farmers are concerned. When they come into action for the purpose of carrying out only those things that can be of value to them, they are prohibited, except where a further provision is provided in the act itself. Now, then, in section 7 the farmers and the labor organizations were placed upon a parity; but in section 18 we find the labor organizations are specially provided for. So that each and every act by which they can accomplish the legitimate purposes of their organization is permitted by the law. We find no corresponding section to section 18 to protect the farmers. Section 18 is as follows:

> SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.
>
> And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to, or withholding from, any persons engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto. Nor shall any of the acts specified in this paragraph be construed or held unlawful.

This matter, Mr. Chairman, as I say, was not asked for by the farmers of the United States. The farmers of the United States are in favor of equality before the law with the manufacturers, miners, laborers, and all others of this country. But when there is presented, as this bill presents, a motley mass of discriminations and favors to various industries denied to others, then in the general skirmish and scrimmage the farmers are entitled to have their share of that discrimination. For that reason the farmers of the United States do not want this meaningless sop thrown to them in this bill, which has no more substance or satisfaction in it than a Dead Sea apple, which would crumble to ashes upon touch; because there is no provision throughout the whole bill in any place that would protect them in carrying out any special course of action whereby they might forward their industry for the purpose of increasing the prices of their products or perhaps reducing the prices of those which they bought.

Perhaps the most exasperating feature of this legislation is the cheap estimate placed upon the farmers' intelligence and vigilance. The farmers of this country will see through this cheap attempt to placate them for the wrongs which have been inflicted upon them by this Congress and will resent the attempt to make them a stalking horse for other classes interested in legislation. This bill discriminates against the small dealer certainly; whether there is a discrimination against the large dealer is a problem. It has nets to catch small fishes, but none apparently strong enough to catch large ones. The discriminations in section 3 must operate in favor of the large mine owner and against the small.

Section 7 to the farmer must appear a fraud upon its face.

Section 8 grants to the railroads of the United States means of combination and agreement hitherto denied by Congress and until this committee acted which neither House of Congress ever dared to favor.

The Nelson amendment we are now discussing is a discrimination. But if you are in the discriminating business, it is important that you give 30,000,000 people of the United States interested in agriculture their share of the discrimination. But this you deny.

I can understand why this bill was drafted by three Members of the majority party in conjunction with the White House with the minority excluded, as was stated in the opening of this debate. It was so with the tariff bill, which discriminates against the farmer. It was drafted by the majority Members with the same aid, because it is a better means of keeping the real purpose of legislators in the dark. A great many people in the United States thought when the tariff bill was being drafted that trust articles and trust-controlled products, and those that were in competition with trust-controlled products, should be placed upon the free list; that that was intended for the manufacturing interests of the United States, and especially those of the East. But when it was unveiled it was found to strike to the extent of 80 per cent the products of the soil, and to the extent of only 20 per cent other products. [Applause on the Republican side.]

The CHAIRMAN (Mr. WILSON of Florida). The time of the gentleman has expired.

Mr. NELSON. Mr. Chairman, will that side consume some of its time?

Mr. WEBB. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. CARR].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CARR] is recognized for 10 minutes.

Mr. CARR. Mr. Chairman, history and chronicle are full of the achievements of heroes, kings, and statesmen in war and politics, but slight insight is given us into the commercial customs or methods of business of ancient or even medieval times. And yet we know that mighty wars were fought whose obscure

objects were really the extension of trade, the acquisition of land, the increase of wealth. Since the day when Joseph forced the people to pay him for his corn, first their money, then their flocks, their cattle, and their asses, and lastly their land and their freedom, the spirit of monopoly has pervaded trade. From the primitive practices of royal monopolists of brick and papyrus in Egypt, of mines and banking in Greece, of salt in Rome, and of many less extensive but more significant methods of trade control among merchants, factors, and shipowners, this genius of monopoly has grown through the years in strength and influence until recently one of the leading bankers of America, Mr. George F. Baker, was constrained to admit before the Pujo committee that the conditions prevailing in the United States had brought about a situation not entirely comfortable for a great country to be in. This grave situation is not a result of the natural growth of industry. On the contrary, it has been brought about through unfair trade practices, through the artificial elimination of competition, through the control of credit achieved by a small group of men over our banks and industries. This result has been attained by three principal methods: First, through the consolidation of banks and trust companies, the reservoirs of money, and their control and the control of the large funds of life insurance companies, through stock holdings, voting trusts, and interlocking directorates; second, through large combinations and consolidations of public-service corporations and the formation of huge industrial trusts, intertwined in interest through common directors, voting trusts, and stock holdings; and, third, through banker management. The very immensity of these trusts and combinations made necessary their financing through bankers who had acquired the power to control the resources of the depositories of the people's money, and thereby enabled a few large banking houses to demand representation upon the directorates and to dictate the business policy of these large commercial units, the issue of stocks and bonds beyond the reasonable needs of business, the purchase of supplies from favored concerns at prices wholly arbitrary, and for the benefit of corporations in which the same group of men were largely interested.

In other words, through the power acquired by the bankers to grant or withhold credit they were not only able to decree the combination and consolidation of industrial units, thereby making necessary large issues of securities and stocks, determined in amount almost absolutely by the will of the bankers, but they were enabled to charge for their services as underwriters all that the traffic would bear. These huge commissions were only made possible through large consolidations, and therefore it became the interests of the bankers to control industrial organizations and to effect these combinations. With the consequent elimination of competition and the ability to fix prices and control markets they were enabled to earn their interest charges and to pay dividends upon fictitious valuations.

An interesting example of the "vicious circle of control through which our financial oligarchy now operates" is stated by Mr. Louis D. Brandeis in his book, Other People's Money, and How the Bankers Use It:

J. P. Morgan (or a partner), a director of the New York, New Haven & Hartford Railroad, causes that company to sell to J. P. Morgan & Co. an issue of bonds. J. P. Morgan & Co. borrow the money with which to pay for the bonds from the Guaranty Trust Co., of which Mr. Morgan (or a partner) is a director. J. P. Morgan & Co. sell the bonds to the Penn Mutual Life Insurance Co., of which Mr. Morgan (or a partner) is a director. The New Haven spends the proceeds of the bonds in purchasing steel rails from the United States Steel Corporation, of which Mr. Morgan (or a partner) is a director. The United States Steel Corporation spends the proceeds of the rails in purchasing electrical supplies from the General Electric Co., of which Mr. Morgan (or a partner) is a director. The General Electric sells supplies to the Western Union Telegraph Co., a subsidiary of the American Telephone & Telegraph Co., and in both Mr. Morgan (or a partner) is a director. The telegraph company has an exclusive wire contract with the Reading, of which Mr. Morgan (or a partner) is a director. The Reading buys its passenger cars from the Pullman Co., of which Mr. Morgan (or a partner) is a director. The Pullman Co. buys (for local use) locomotives from the Baldwin Locomotive Co., of which Mr. Morgan (or a partner) is a director. The Reading, the General Electric, the Steel Corporation, and the New Haven, like the Pullman, buy locomotives from the Baldwin Co. The Steel Corporation, the Telephone Co., the New Haven, the Reading, the Pullman, and the Baldwin Cos., like the Western Union, buy electrical supplies from the General Electric. The Baldwin, the Pullman, the Reading, the Telephone, the Telegraph, and the General Electric Cos., like the New Haven, buy steel products from the Steel Corporation. Each and every one of the companies last named markets its securities through J. P. Morgan & Co., each deposits its funds with J. P. Morgan & Co., and with these funds of each the firm enters upon further operations.

This specific illustration is in part supposititious, but it represents truthfully the operation of interlocking directorates. Only it must be multiplied many times, and with many permutations, to represent fully the extent to which the interests of a few men are intertwined. Instead of taking the New Haven as the railroad starting point in our example, the New York Central, the Santa Fe, the Southern, the Lehigh Valley, the Chicago & Great Western, the Erie, or the Pere Marquette might have been selected; instead of the Guaranty Trust Co. as the banking reservoir, any one of a dozen other important banks or trust companies; instead of the Penn Mutual as purchaser of the bonds, other insurance companies; instead of the General Electric, its qualified competitor, the Westinghouse Electric & Manufacturing Co. The chain is, indeed, endless, for each controlled corporation is entwined with many others.

Mr. Chairman, the Democratic Party is pledged not to the regulation of monopoly but to its absolute destruction by the enactment of specific legislation. The Baltimore platform declares:

A private monopoly is indefensible and intolerable. We, therefore, favor the rigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States. We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others, the prevention of holding companies, of interlocking directorates, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

The series of trust bills presented to this Congress are designed to fulfill that pledge to the American people. The present bill embraces six important provisions exclusive of procedural rules, as follows:

First. It attempts to prevent unfair discrimination in price whereby great corporations, by selling their goods at a less price in the particular communities where their rivals are engaged in business than in other places throughout the country, endeavor to destroy competition and render unprofitable the business of competitors. The prohibition is comprehensive and permits of exception only on account of differences in grade, quality, and quantity of the commodity sold, and on account of differences in the cost of transportation. Although 19 or 20 States have, within the last few years, enacted such laws to correct such discriminatory practices within their borders it is very necessary that there should be national legislation on the subject, as it is now possible for a great corporation to lower the prices of its commodities throughout the borders of one State without violation of State laws, and thereby destroy the business of competitors within that State.

Second. It is made unlawful for the owner or operator of a mine or the selling agent thereof in commerce to refuse to sell such product to a responsible person who applies to purchase the same. Thereby it is made impossible that the bounty of the earth shall be monopolized.

Third. It is made unlawful for a manufacturer to contract with a dealer not to use or deal in the commodities of a competing manufacturer. Such practice results in driving out competitive articles from a community and tends to establish a monopoly in the trade of the commodity handled under the exclusive contract and generally results in sales at a higher profit. Very often, however, the merchant finds his shelves filled with articles he is unable to sell. It is unfair to the dealer, but it is more grievously unfair to the millions of American consumers who are compelled to purchase the necessaries of life through the ordinary channels of trade in their respective communities.

Fourth. It is made unlawful for a corporation engaged in commerce to acquire the whole or any part of the stock of another corporation engaged in commerce where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition or create a monopoly of any line of trade in any section or community. The evil to be avoided by this prohibition is obvious. It goes much further than the Sherman antitrust law and defines with practical precision in what an undue restraint of trade consists.

Fifth. It is made unlawful after two years (a) for an individual, a member of a partnership, or a director or other officer of a corporation engaged in the business of producing or selling equipment, materials, or supplies to railroads or common carriers to act as a director, officer, or employee of another corporation or common carrier purchasing from such person or the partnership of which he is a member or the corporation of which he is a director or other officer; (b) for any banker, director, or other officer of a bank to be a director, officer, or employee of any common carrier for which such person or bank or trust company acts as underwriter or from which such person, banker, or trust company purchases securities; (c) for any person to be at the same time a director, officer, or employee of more than one bank, banking association, or trust company whose deposits, capital, surplus, and undivided profits aggregate more than $2,500,000; (d) for any person to be at the same time a director in any two or more commercial corporations either of which has capital, surplus, and undivided profits aggregating more than $1,000,000, except common carriers subject to the control of the Interstate Commerce Commission.

Sixth. It is provided that nothing contained in the antitrust law shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural or-

ganizations or to restrain individual members of such organizations from carrying out the legitimate objects thereof.

The provisions of sections 9 against interlocking directorates is one of the most important and far-reaching legal restraints in the whole history of corporate reform. It is one which, as the President has said, opinion deliberately sanctions and for which business waits. In his message of January 20, 1914, the President said:

> It [business] awaits with acquiescence, in the first place, for laws which will effectually prohibit and prevent such interlockings of the personnel of the directorates of great corporations, banks, and railroads, industrial, commercial, and public-service bodies, as in effect result in making those who borrow and those who lend practically one and the same, those who sell and those who buy but the same persons trading with one another under different names and in different combinations, and those who affect to compete; in fact, partners and masters of some whole field of business.

It was developed by the Pujo committee that Mr. George F. Baker, chairman of the board of directors of the First National Bank of New York, is a director in 22 corporations having aggregate resources of $2,272,000,000, and that the directors of that bank are directors in not less than 27 other corporations whose aggregate resources are $4,270,000,000. Mr. James Stillman, chairman of the board of directors of the National City Bank, is a director in 7 corporations, with aggregate resources of $2,476,000,000, and that the directors of that bank are directors in no less than 41 other corporations which have aggregate resources of $10,564,000,000; that the members of the firm of J. P. Morgan & Co. are directors in 47 of the largest corporations in the country; and that these three groups, Messrs. J. P. Morgan & Co., the directors of the First National Bank, and the National City Bank, hold 118 directorships in 34 banks and trust companies having total resources of $2,679,000,000 and total deposits of $1,983,000,000; 30 directorships in 10 insurance companies having total assets of $2,293,000,000; 105 directorships in 32 transportation systems having a total capitalization of $11,784,000,000 and a total mileage of 150,200 miles; 63 directorships in 24 producing and trading corporations having a total capitalization of $3,339,000,000; 25 directorships in 12 public-utility corporations having a total capitalization of $2,150,000,000; in all, 341 directorships in 112 corporations having aggregate resources or capitalization of $22,245,000,000.

Such a condition is contrary to public policy, is violative of the spirit of business fairness, and is destructive of that freedom and democracy of individual opportunity which ought to characterize the institutions of a republic. It is offensive to that scriptural injunction that—

> No man can serve two masters, for either he will hate the one and love the other, or else he will hold to the one and despise the other.

It is in moral opposition to that relationship of trust which legally exists between a corporation and a director. It is a clear rule of law that directors of a corporation are trustees for the stockholders and that the corporate property is a trust fund to be administered by them in the utmost good faith. No contract in which a director is interested can be sustained against attack where the interested director is a necessary part of the quorum. In England they have a rule that whenever it appears that a director of a corporation is interested in corporate matters under consideration by the board of directors, such director is thereby removed from office. In an Ohio case it was said:

> A director whose personal interests are adverse to those of the corporation has no right to be or act as a director. As soon as he finds that he has personal interests which will conflict with those of the company he ought to resign

Each corporation is interested in obtaining an advantageous bargain and each ought to have a sole claim upon the best endeavors of its agents. As the New York court said:

> The law permits no one to act in such inconsistent relations. It does not stop to inquire whether the contract or transaction was fair or unfair. It stops the inquiry when the relation is disclosed, and sets aside the transaction or refuses to enforce it, at the instance of the party whom the fiduciary undertook to represent, without undertaking to deal with the question of abstract justice in the particular case.

As long ago as 1880 Mr. Justice Field said:

> It is among the rudiments of the law that the same person can not act for himself and at the same time, with respect to the same matter, as the agent of another whose interests are conflicting. The two positions impose different obligations, and their union would at once raise a conflict between interest and duty; and, constituted as humanity is, in the majority of cases duty would be overborne in the struggle.

And yet this salutary rule has been made wholly ineffective to prevent unfair contracts between corporations through the agency of a common director by judicial decision that such contracts are valid when the vote of the interested director was not necessary to carry the resolution or his presence to constitute a quorum, and that even where his vote and presence were so necessary, the contract is voidable only in a proper proceeding taken for that purpose by the corporation, its shareholders, or its creditors, and is not absolutely null and void.

And yet everyone knows that it is the common practice in such cases for a director actively to interest himself in the discussions of such contracts and then have himself recorded as "not voting." Where the interested director is a representative of the fiscal agent of such corporation, it is unnecessary for him even to be present at meetings where such contracts are voted, for since he controls the supply of capital his will can not be disregarded.

This ruling of the courts has rendered actions to set aside such contracts so infrequent as to be almost negligible. Manifestly stockholders have but slight knowledge of the transactions of large corporations which are managed exclusively by a board of directors. Nor would knowledge alone suffice since they are under the necessity of producing evidence often carefully concealed and difficult of exposure. Even with the necessary evidence at hand, a suit against a large corporation or one of its directors is usually an expensive and protracted proceeding, and one which stockholders of moderate means will not often undertake. Even large stockholders may very well fear the power of the interlocked interests of such a director and his associates and conclude rather to bear the ills he has than fly to others that he knows not of.

Mr. Chairman, I would go still further than this bill, for whereas it has been provided that no person shall be a director in two or more commercial corporations either of which has capital of more than $1,000,000, I would extend the prohibition to prevent any person who is a stockholder to the extent of 10 per cent or more of the share capital of any corporation capitalized at $1,000,000 or more from being at the same time a director in any corporation capitalized at more than $1,000,000, except the corporations in which he is a stockholder. I can see no difference in principle in the one case than in the other. The evils to be avoided are identical, the conflict of interest is the same, the divided allegiance is equally evident.

The time has come, Mr. Chairman, to deal effectively with these abuses. The paternal control of a few self-constituted masters can not longer be suffered to obstruct the industrial activity which is the spirit of liberty and the very lure of life. In this bill we lay the ax to the root of the tree of monopolistic control. We seek to destroy the processes which make monopoly possible. And further fulfilling our pledges we make guilt personal. We declare then the offending individual shall himself answer for his offending. We seek to protect the commerce of the Nation and to allow it to flow in the natural channels of free and fair competition, to permit the individualistic spirit of America to find expression and our human resources to be utilized in the freedom of our industrial life. [Applause.]

The CHAIRMAN. The gentleman yields back eight minutes.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Maryland [Mr. LEWIS].

Mr. LEWIS of Maryland. Mr. Chairman, I should not undertake to discuss this provision further were it not for the deep respect I feel for the high-minded patriotism of the author of the amendment, Mr. NELSON, a compliment I wish to pay him in this public way. I think, however, he, with some others, is proceeding on an assumption with reference to these amendments which is not sustained by the actual conditions of the discussion. That assumption is that in some sort of a way Congress is giving to the farming organizations and to other mutual organizations the rights which they are to enjoy in the future. That is an error. Their right to exist and their conditions of existence will continue to spring from the legislation of the respective States; and the farming organizations in which my friend from Wisconsin [Mr. NELSON] is justly so much concerned can look with confidence to the legislature of his own State for their charters of privileges and their bills of rights.

Mr. NELSON. Mr. Chairman, I should like to ask the gentleman——

Mr. LEWIS of Maryland. Let me first complete this thought. It is only under conditions whereby any commercial organization may become a trust or monopoly that the jurisdiction of national legislation will attach to that organization at all. It is very misapprehensive of the situation to suggest any fear for the farming organizations which exist in this country, because in evidence of that we have the actual situation itself to dispel such fear. There is the well-known California Citrus Fruit Association, of the Pacific coast, which has reached very, very large proportions, and the operations of which are a matter of national notice. Yet, large and important as it is, there has been no effort to apply even the unamended Sherman antitrust law to its operations. There is, therefore, no ground to express the fear that the National Government is about to or may at

any time proceed against the farming organizations of the country. Their rights will continue to be the rights which are granted them by the respective States. Now I will yield to the gentleman from Wisconsin for his question.

Mr. NELSON. If the States can properly grant them the rights the gentleman mentions, why can not the Congress grant them also the right to be protected interstate?

Mr. LEWIS of Maryland. The Congress does grant that right under the present antitrust laws, especially as qualified and amended by this clause, section 7.

Mr. NELSON. One further question. The gentleman is a very able representative of labor, and as such he asked relief for labor organizations because they were always under the threat of being prosecuted under the Sherman law. Why does he not ask, in all fairness, that farmers be treated as he has insisted that labor should be treated?

Mr. LEWIS of Maryland. We do give them the same rights in the same clause and in the same language of section 7.

Mr. NELSON. Oh, but the gentleman——

Mr. LEWIS of Maryland. There was this difference: The labor organizations had been attacked, and successfully attacked, in the courts.

Mr. NELSON. But the farmers have also been attacked in Kentucky, as the gentleman knows.

Mr. LEWIS of Maryland. Both of them are relieved from that attack in the same provision.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. I yield to the gentleman from Maryland three minutes more.

Mr. NELSON. The gentleman from Maryland is very fair, and I want to say to him that I am very sorry to see that labor has deserted its old-time ally, the farmer. Labor is specifically excluded, because of the two qualifications, "capital stock" and "conducted for profit." But what has the farmer, if he organizes a cooperative business association for profit?

Mr. LEWIS of Maryland. That introduces what I would wish to add to my remarks. What is it that the farmer of the United States wants? I do not believe he wants to raise prices, as a trust or a monopoly is instinctively designed to do. What he wants is to get for his own products the prices that he knows the consumers of this country are paying for them. If we could give the farmer a method by which he could secure for his product what the consumers actually pay, I am sure he would be delighted; farming prosperity would be greatly augmented and the Nation itself blessed by such prosperity.

Now, there is nothing in this provision that is not designed to give him the fullest opportunities to organize with reference to the marketing of that product through mutual cooperation. But I am sure the gentleman recognizes that in dealing with the trusts the statutes must draw lines of distinction, and the statute in this particular case draws its line of distinction between the organization of men and the monopolizers of commodities. That distinction is sustained by the instincts of justice in the human race. The ordinary workman in the factory can combine his manhood, his intelligence, and his organizing instincts for mutual advantage. The farmer is explicitly mentioned as having the right to do the same thing. Now, to do otherwise would be to open the gates for, possibly, that citrus fruit association, if it ever should overgrow and overleap the bounds where national welfare becomes involved. I think that in all fairness to the gentleman from Wisconsin it can be claimed for this section 7, as it is now amended, that it is equally just to all forms of human labor, on the farm as well as in the factory. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WEBB. Mr. Chairman, we do not care to discuss this any further on this side. I suppose gentlemen on the other side have completed what they wished to say.

Mr. VOLSTEAD. I yield to the gentleman from Washington [Mr. FALCONER].

Mr. FALCONER. Mr. Chairman, I speak in favor of the amendment offered by the gentleman from Wisconsin [Mr. NELSON]. I believe there was something also in the statement of the gentleman from Pennsylvania [Mr. GRAHAM] a few minutes ago when he said that this bill seems to treat of several distinct lines of legislation. It is characteristic of this Congress to do an omnibus legislative business. I believe it would have been wiser for the Congress to have treated the question of labor and farm cooperative associations entirely separately from monopolies and trusts.

This bill—and I do not rely on my own judgment alone, but from general discussion of eminent gentlemen—is very much complicated; but there should be no misunderstanding regarding the rights of farm cooperative associations in an endeavor to obtain just consideration when organizing among themselves for the purpose of profitably marketing their own produce.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Oklahoma [Mr. MORGAN].

Mr. MORGAN of Oklahoma. Mr. Chairman, I should not impose further remarks on the House if I did not really believe that there is great merit in the amendment proposed by the gentleman from Minnesota. The first paragraph of section 7 of the bill as reported by the committee and as amended by the amendment offered by the gentleman from North Carolina is as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to forbid the existence and operation of fraternal, labor, consumers', agricultural, or horticultural organizations, orders, or associations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations, orders, or associations from carrying out the legitimate objects thereof, nor shall such organizations or orders or associations, nor the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

Now, I have prepared what I think would be a proper substitute for the first paragraph of section 7, as quoted above. It is as follows:

SEC. 7. That nothing contained in the antitrust laws shall be construed to prevent the existence or operation of labor organizations; or to forbid such labor organizations or persons belonging thereto from entering into any contract, agreement, or arrangement with a view to lessening the hours of labor; or of increasing their wages; or of bettering their conditions; or to forbid the existence and operation of consumers' organizations; or to forbid such organizations or members thereof from entering into any contract, agreement, or arrangement with a view to lessening the cost to them of goods, wares, and merchandise, or of any agricultural or horticultural product; or to forbid the existence or operation of any farmers' organization or any agricultural or horticultural organization; or to forbid such organizations or the members thereof from entering into any contract, agreement, or arrangement with a view to reducing the cost to them of tools, implements, machinery, fertilizers, or of any other supplies needed by persons engaged in agriculture or horticulture; or with a view to collective bargaining in the sale of their products or to obtain better credit or lower interest; nor shall such organizations or orders or associations, nor the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

My objection to section 7 as it has been amended is that under it only farmers' organizations without capital stock and not conducted for profit would be legal under this section. In other words, it exempts from antitrust laws only farmers' organizations organized for mutual help along social, literary, and educational lines. There has been no attempt to dissolve such farmers' organizations, so that the provisions of section 7 really give to farmers nothing. While we are considering this question we should in plain language give the farmers the right to organize, even with capital stock or for profit, so long as their organizations are along legitimate lines to aid them in marketing their products as cheaply as possible and in purchasing their supplies as cheaply as possible.

Now, the amendment offered by the gentleman of Minnesota [Mr. NELSON] is broad enough to give the farmers what they need and should have. I think it was Sir Horace Plunkett, who made a thorough study of American agriculture, and who has devoted his life largely in an effort to improve agricultural conditions in Ireland, who said that improvement in agriculture must come through better farming, better business, and better living, and that the first of these was better business in farming. Improvement in farming—the making of the farm what it should be in this country—must come through better transportation facilities, better educational advantages, and better organization among our farmers.

As a member of the Judiciary Committee I filed a minority report to this bill, in which I said:

The law not only should not prohibit but should encourage farmers to organize with a view to purchasing implements, machinery, and other farm supplies at less cost and with the view to collective bargaining in the sale of their products and in the purchase of supplies. In France, Germany, and other European countries farmers' organizations are authorized by law. The line along which these organizations can act is definitely defined. Governmental aid, direction, and assistance is given. Such organizations are encouraged to engage in a wide field of purely business transactions. These organizations have contributed immensely to the expansion of the agricultural interests of these countries. It would be exceedingly unfortunate at this time, when we are about to enter upon the important task of providing our farmers with better credit facilities, to enact a law which may be construed to make all farmers' organizations unlawful except such as are organized for the mutual benefit of members along literary, insurance, and social lines.

Practically every other business is highly organized but the business of farming. There are about 6,500,000 farmers. Something like 12,000,000 persons over 10 years of age toil on the farm. The farmers are at a great disadvantage. Labor is organized. Business is organized. Concentration, combination, cooperation everywhere except among the farmers. With the most intelligent farmers of the world, in business cooperation our farmers are far behind the less intelligent farmers of other countries. To aid our farmers in the line of greater cooperation has now become a national duty, and it would be hardly short of a public calamity to enact a statute which on its face restricts and limits to a narrow sphere the purposes for which agricultural associations may be formed.

I know the gentlemen constituting the leadership on this committee have no desire to neglect the farmer. I know the gentleman from Maryland [Mr. LEWIS], who is the champion in the interest of labor, has no desire to do an injustice to the farmer, and yet, as I have studied this question, I believe that the National Government ought not only to permit farmers to organize, but that the National Government should make appropriation to encourage the farmers to organize.

The United States is doing more and has done more along the line of education for the farming interests than any nation on earth, but along the lines of teaching our farmers to organize for better business we are a quarter of a century behind the great European Governments. There is no question about that.

Mr. WEBB. Will the gentleman yield?

Mr. MORGAN of Oklahoma. Certainly.

Mr. WEBB. Wherein do the farmers get more in the Nelson amendment than we have given them in the amendment just adopted?

Mr. MORGAN of Oklahoma. I think there is some question of whether there can be a farmers' organization to aid the farmers in marketing the crops more cheaply, or in purchasing their supplies at a less price under the committee amendment which has been adopted. To carry on this kind of an organization it may be necessary to have capital stock, and it may be necessary that these organizations shall be for the purpose of profit. As long as we do not permit the farmer to organize trusts to elevate prices of cotton, wheat, or some other staple product, we are doing the country no injury.

We passed the tariff act, but we all know that under that act the farmer is largely placed in competition with the farmers of the world, however ignorant they may be, or however cheap the labor they may employ, or however cheaply they may be able to produce farm products. We passed the currency act, but you postponed the bill to give our farmers cheaper interest. What have you done for the farmer? Now, when you are passing a third great bill, you are about to place therein a section which, in my judgment, does not do the farmers of this country justice. I believe that it is in the interest not only of the farmer but in the interest of the great consuming masses of the country that we should encourage the farmers to organize to market their crops and in buying supplies.

Gentlemen who pose here as champions for labor are indirectly pleading against labor when they oppose the organization of farmers. We want the farmers to organize so that the products of the farm can come more directly to consumers with less cost and with a fewer number of middlemen. [Applause.]

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. WEBB. Mr. Chairman, I yield five minutes to the gentleman from Arkansas, a member of the committee.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from Minnesota. In the exception made in section 7 as it is written we use the same language in reference to farmers' organizations that we do in reference to labor and other organizations mentioned. We believe to that extent they should be differentiated from industrial and other corporations organized for profit. Gentlemen, I represent a farming district, and I also represent one of the greatest horticultural districts in the United States, but I am opposed to incorporating a provision in this bill that will allow the farmers and the horticulturists of this country to enter into combinations to increase the price of their products, which are industrial commodities, when in the existing law we forbid manufacturers and other classes of citizens from entering into such combinations.

I come from the South, and the South produces three-fourths of the cotton in the world, and perhaps more. I am opposed to any law that would allow the cotton farmers of the South to enter into combinations to control the price of cotton which at the same time would make it a crime for the manufacturers who purchase that cotton and manufacture it into cloth to enter into like combinations to raise the price of the manufactured product. For these reasons we think the amendment should be rejected. I represent the majority of the committee in opposing the amendment offered by the gentleman from Wisconsin, and I hope the House will vote it down. [Applause.]

Mr. WEBB. Mr. Chairman, just one word before we vote. The Illinois antitrust act, as my friend from Illinois knows, undertook to exempt agricultural products and live stock while in the hands of the producer and raiser. It was in these words:

> The provisions of this act shall not apply to agricultural products and live stock while in the hands of the producer and raiser.

That was in the antitrust act.

A man by the name of Connolly was the defendant when this particular act came to the notice of the Supreme Court. When the Supreme Court came to pass upon it they said that that act was void because it undertook to exempt agricultural products and live stock.

Mr. MANN. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. MANN. That was under a constitutional limitation on the power of the Legislature of Illinois, and that is not in the United States Constitution.

Mr. WEBB. I understand that perfectly. The fourteenth amendment forbids any State to deny every citizen the equal protection of the law. That is the ground on which the Supreme Court in this case puts its opinion in declaring the statute unconstitutional. But I want to call attention to this one sentence in the opinion of that great and good judge, Judge Harlan:

> We conclude this part of the discussion by saying that to declare that some of the class engaged in domestic trade or commerce shall be deemed criminals if they violate the regulations prescribed by the State for the purpose of protecting the public against illegal combinations formed to destroy competition and to control prices, and that others of the same class shall not be bound to regard those regulations, but may combine their capital, skill, or acts to destroy competition and to control prices for their special benefit, is so manifestly a denial of the equal protection of the laws that further or extended argument to establish that position would seem to be unnecessary.

The proposition of my friend from Minnesota [Mr. NELSON] is to allow a certain class of people to form corporations with the avowed purpose of monopolizing certain products for the purpose of enhancing the prices of those products. If that be his amendment, I do not believe that any man ought to vote for it, because I do not see why one man should have the right to enhance the price of a certain class of products by monopoly whereas another man is denied that same right and is put in jail if he does it.

Mr. NELSON. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. NELSON. Therefore the gentleman feels that farm organizations should be properly under the Sherman antitrust law?

Mr. WEBB. No; I do not believe that they should, if they are organizations for mutual help, without profit, just like labor organizations, and this bill expressly legalizes their existence.

Mr. NELSON. Will the gentleman explain how any farm organization not organized for profit could possibly be in violation of the terms of the law?

Mr. WEBB. If a farmer or a doctor or a merchant or a manufacturer, or a combination of them, violates the law of the land, they ought to be punished for it.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Yes.

Mr. MANN. Under the Webb amendment which we have just agreed to, would it not be lawful for 10,000 or 100,000 farmers to join an organization not for profit?

Mr. WEBB. Absolutely.

Mr. MANN. To raise the price of wheat or the price of cotton or to refuse to sell it at a less price than a certain fixed price higher than the then market price?

Mr. WEBB. I do not know whether it would go that far or not. As long as the product is their own cotton or corn they can hold it as long as they please.

Mr. MANN. I asked the question, and the gentleman said a while ago that he did not believe in that; but is not that the effect of the amendment that we agreed to, as long as the organization is not for profit, that it shall not be considered as an organization in restraint of trade?

Mr. WEBB. That is what the amendment says; yes.

Mr. MANN. So that if a million farmers, if they could get them to agree, could agree not to sell cotton below a fixed price or corn or wheat or any other product below a fixed price, and that agreement would be lawful?

Mr. WEBB. So long as the farm products are in the hands of those who produce them.

Mr. MANN. It might not be in hand, but it might be in a warehouse.

Mr. WEBB. That is still in the producer's possession.

Mr. CARR. Would it not be for profit if it raised the price, and therefore illegal?

Mr. MANN. But it would not be an organization for profit.

Mr. CARR. That is what the gentleman says—organized for profit.

Mr. WEBB. I do not believe we ought to permit corporations organized for profit to monopolize any product and to depress or raise the price of any product, for such would be offensive to every principle of law against monopoly and restraint of trade.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. NELSON) there were—ayes 23, noes 59.

So the amendment was rejected.

Mr. BRYAN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 24, after the word "laws," at the end of the Webb amendment, add the following:

"There shall be no abridgment of the right of wage earners and producers to organize for the protection of wages and improvement of labor conditions."

Mr. BRYAN. Mr. Chairman, I claim no pride of authorship in this amendment. A very much greater Bryan than I is the man who wrote this amendment. I have copied it verbatim from the Democratic platform enunciated at Baltimore by the Democratic Party, and it is declared to be the last word of that party on this particular subject.

The CHAIRMAN. The Chair will state that according to his understanding the gentleman from Minnesota [Mr. VOLSTEAD] controls the time for debate.

Mr. VOLSTEAD. Mr. Chairman, I yield the gentleman five minutes.

Mr. BRYAN. Mr. Chairman, this is a part of the Democratic platform, and it gives me a great deal of pleasure to dish up to the Democrats here an amendment which ordinarily I know they would not adopt, but which, under the peculiar conditions existing, it being a part of their own platform, they will surely adopt.

It goes a good deal further than the amendment that has been adopted, for it provides that there shall be no abridgment of the right of labor to organize to promote higher wages and protect their own product, and it is true it might, under interpretation, grant labor a great deal more rights than labor has demanded. But it is a part of the Democratic platform.

Mr. HENRY and Mr. SLOAN rose

The CHAIRMAN. To whom does the gentleman yield?

Mr. BRYAN. I yield first to the gentleman from Texas.

Mr. HENRY. Does the gentleman wish to adopt all of the Democratic platform?

Mr. BRYAN. I will say to the gentleman that I could hardly ask to put all of the Democratic platform in this bill, for if we were to do so we would save the Panama Canal.

Mr. HENRY. The gentleman knows that all of his amendment is in section 7 as amended?

Mr. BRYAN. If it is already in the bill, then it will not be out of place to call the matter to the attention of Congress and permit Congress to vote upon it. The Democratic platform has some good things in it, but I have noticed that it has not always been approved. I have noticed that on two or three occasions it has been denied recognition on the floor of this House, and I am anxious to see whether in this particular case the very words of the Democratic platform will prove to be obnoxious to the members of the Democratic Party on this floor. I ask that the amendment be adopted; it comes from such an eminent authority.

I now yield to the gentleman from Nebraska [Mr. SLOAN].

Mr. SLOAN. Speaking about the plank in the Baltimore platform, I want to ask the gentleman if he has read the latest bulletin to discover whether or not it is a slight interference and like a good many others it has been repudiated?

Mr. BRYAN. Well, I have not discussed the latest bulletin, but I recognize the fact that when we are on the Democratic platform, according to some precedents, we have to learn what the latest authority is about it, but I do not think in a case of this kind, in a matter involving the Democratic Party's interpretation of its duty to labor, that anybody would have to be consulted, and I think the fact that this amendment is a plank from the Democratic platform ought to be enough not to require any debate whatever, and I hope it will be adopted.

Mr. CARLIN. I yield one minute to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Chairman, I desire to have incorporated in the RECORD in my time a letter from the four religious organizations of Tuolumne County, Cal., against polygamy and in favor of a constitutional amendment prohibiting it.

Mr. BRYAN. I would like to ask the gentleman what the subject of polygamy has got to do with the Democratic Party going off after strange gods? I want the Democratic Party to stick loyally to its one platform till death, and I do not know how polygamy has anything to do with that.

Mr. BARNHART. Will the gentleman yield?

Mr. RAKER. Yes; to anybody interested on this subject, of course. I always yield.

Mr. BARNHART. Why should not the gentleman from California introduce that through the basket in the regular way?

Mr. RAKER. It is not in the basket clause.

Mr. BARNHART. I am serious about it.

Mr. RAKER. I am serious about it.

Mr. BARNHART. Why does not the gentleman introduce it in the regular way?

Mr. RAKER. I want to get it in in this way, to show that the people of California are anxious to recognize and are in favor of this constitutional amendment proposed to the people prohibiting polygamy, so that they might vote upon it. They are interested in it.

The CHAIRMAN. The gentleman from California asks unanimous consent to insert a letter as a part of his remarks. Is there objection?

Mr. MANN. What is the letter?

The CHAIRMAN. In reference to polygamy.

Mr. MANN. We have a rule that nothing shall come in this debate except that relating to the bill, although I think it might come in on this bill which they say has plural wives.

Mr. BARNHART. I object.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Washington.

The question was taken, and the amendment was rejected.

Mr. HULINGS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk. I do not know it is in order at this time, because it is an amendment to the second paragraph.

The CHAIRMAN. It is not in order at present, the Chair will state to the gentleman. The Clerk will report the amendment offered by the gentleman from Illinois to the paragraph which is pending.

The Clerk read as follows:

Page 24, strike out lines 11 to 24, both included.

Mr. MANN. Mr. Chairman, this amendment——

Mr. CARLIN. Will the gentleman suspend? I want to inquire, if possible—we have had four or five hours debate on this section, and I would like to see if we could not arrive at some time for concluding debate on the second paragraph.

Mr. MANN. We would like about 45 minutes.

Mr. HULINGS. I understand the gentleman's amendment is to strike out the paragraph.

The CHAIRMAN. So the Chairman understands.

Mr. HULINGS. My amendment is to insert.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] has the floor at the present time.

Mr. HULINGS. The gentleman's amendment is to strike out, while the amendment I present is to perfect the section, and I assume it has precedence.

The CHAIRMAN. Such an amendment as the gentleman indicates would be a preferential amendment.

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on the second paragraph and all amendments thereto be closed in 80 minutes, 40 minutes to be controlled by the gentleman from Minnesota and 40 minutes by myself.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate upon the second section and all amendments thereto be closed in 80 minutes, 40 minutes to be controlled by himself and 40 by the gentleman from Minnesota. Is there objection?

Mr. FERRIS. Mr. Chairman, reserving the right to object, I have an amendment I think is fairly important; it may not appear so to the rest of the committee; but I would like to make it certain that I may have 5 or 10 minutes.

Mr. WEBB. I can not agree to the gentleman having 10 minutes. There are a great many gentlemen who would want to have 10 minutes. We have given 80 minutes to a discussion of this section, and I think that is plenty of time.

Mr. MANN. I think we occupied three or four hours on it one day two or three years ago, when I had charge of the bill.

Mr. WEBB. I am very glad we are making such excellent progress now. I am sure that 80 minutes is time enough to discuss this.

Mr. FERRIS. I will not object; but if there are eight amendments, that would give eight Members 10 minutes apiece.

Mr. WEBB. I could not agree to give the gentleman 10 minutes, but he will have some time to discuss his amendment.

Mr. CARLIN. And the gentleman is only entitled to five minutes under the rule.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. BEALL of Texas. Mr. Chairman, reserving the right to object, I would like to say to the chairman of the committee my colleague has an amendment he proposes to offer to the same paragraph. Would that come in under the unanimous-consent agreement?

Mr. WEBB. It would be if it were offered. The gentleman will have time to present his amendment. I will be glad to have the Chairman put the request.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that all debate on the pending paragraph and all amendments thereto be closed in 80 minutes, one half of that time to be controlled by himself and the other half by the gentleman from Minnesota [Mr. VOLSTEAD]. Is there objection?

Mr. FERRIS. Mr. Chairman, reserving the right to object for a moment, I want to ask the chairman of the Committee on the Judiciary a question. I hope it is not arranged so that all the time shall be taken up on one amendment and requiring that the other amendments be voted down in rotation. Now the gentleman from Illinois [Mr. MANN] comes along with an amendment to strike out the whole paragraph.

Mr. MANN. That is not my amendment, to begin with. But other amendments take precedence over it, among them that of my colleague from Illinois [Mr. MADDEN].

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. CARLIN. Mr. Chairman, I want to make a suggestion to the gentleman while he is on his feet. I want to suggest to gentlemen who have amendments already prepared that they send them to the desk and there have them read, so that they can be included in the debate.

Mr. MANN. I hope this will not be taken out of my time. I suggest to the gentleman in charge of the time to yield to gentlemen to offer amendments. I am perfectly willing to delay, so far as I am concerned, until those amendments are disposed of.

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Oklahoma half a minute and to the gentleman from Texas [Mr. VAUGHAN] half a minute in which to offer amendments.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] is recognized.

Mr. FERRIS. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. It is to be considered as pending?

Mr. FERRIS. Yes.

Mr. MANN. He offers the amendment, if it is in order, to perfect the text.

Mr. FERRIS. I thought the gentleman from Illinois wanted to go ahead.

Mr. TOWNER. Mr. Chairman, would it not be better if these amendments were offered in connection with the remarks of the gentleman from Oklahoma and other gentlemen?

Mr. WEBB. If the gentleman from Illinois will yield, I will recognize each one of these gentlemen to offer amendments.

Mr. MANN. I will yield.

Mr. FERRIS. Mr. Chairman, let my amendment be reported.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

Mr. WEBB. Mr. Chairman, I yield to the gentleman from Oklahoma five minutes.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. FERRIS:

"Page 24, line 24, after the word 'rates,' insert the following proviso: '*Provided*, That from and after the passage of this act it shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas, or hydroelectric energy, either by rail, water, pipe line, transmission line, or otherwise from one State, Territory, or District of the United States to another State, Territory, or District of the United States, or to any foreign country, who shall not become a common carrier within the meaning and purposes of and subject to the act entitled "An act to regulate commerce," approved February 4, 1887.'"

Mr. WEBB. Mr. Chairman, I make the point of order that that is not germane. It does not sound germane from the reading of it.

Mr. FERRIS. I want to be heard on that, Mr. Chairman.

Mr. HULINGS. Mr. Chairman, I believe I have sent to the desk an amendment already.

Mr. FERRIS. The gentleman from North Carolina [Mr. WEBB] has made a point of order on my amendment. I want to be heard on the point of order.

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania [Mr. HULINGS] did not have the floor.

Mr. HULINGS. I had the floor to offer an amendment and was recognized by the Chair.

The CHAIRMAN. The Chair will state to the gentleman that an agreement was made by the committee to limit debate on this section.

Mr. HULINGS. I did not want to be run over; that is all.

Mr. FERRIS. Mr. Chairman, I hope argument on the point of order will not be taken out of my time. I want to be heard on the point of order.

This bill is to supplement existing laws against unlawful restraints and monopolies and combinations for unlawful purposes. This particular paragraph deals with common carriers and interlocking directorates and traffic arrangements.

Mr. MANN. Oh, there is nothing about interlocking directorates and traffic arrangements in this paragraph.

Mr. FERRIS. Listen a moment and let us determine who is right. This section provides:

Nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission, and all such agreements shall be entered and kept of record by the carriers, parties thereto, and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic, or existing laws against joint agreements by common carriers to maintain rates.

The amendment I have offered, Mr. Chairman, is to amend and supplement the antitrust laws of the United States, and has to do with the particular paragraph under consideration, and has to do with the particular bill now pending before the House. Nothing can be more germane, nothing could be more in order, dealing precisely with the proposition of carrying in interstate business, and with the proposition laid down in this section and even in the title of the bill.

Mr. WEBB. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from North Carolina?

Mr. FERRIS. Yes; with pleasure.

Mr. WEBB. Is not that very question now pending in the Supreme Court of the United States on appeal from the State of Oklahoma, and is not the decision of that court expected on the 8th of this month?

Mr. FERRIS. It is. But this is to strengthen the law the Commerce Court sought to destroy. The Interstate Commerce Commission has for a long time been trying to bring pipe lines under their own jurisdiction, and they instituted a series of proceedings on their own motion to bring that about. The Prairie Oil & Gas Co., with others, went in and enjoined the commission, and I hold in my hand the decision in the Prairie Oil & Gas case, which was decided by the Commerce Court, and I think the dissenting opinion by Judge Mack is the correct law and ought to be the law; but I fear that the Supreme Court will not uphold the decision of the Commerce Court, and I want to write this amendment into the law so we will be sure to get relief. This amendment was submitted to Secretary Lane, who probably knows more about this matter than most of us here, and he is heartily in favor of the adoption of such a principle. This is too important to pass by lightly.

Mr. WEBB. Mr. Chairman, our view is that while this amendment may be germane to some portion of the bill, it certainly is not germane to this particular paragraph of this section, which exempts certain traffic arrangements from the operation of the antitrust law.

In addition to that, the gentlemen from Oklahoma ought not to undertake to take two bites at the same cherry. They have submitted their controversy to the highest court in the land, and they ought to wait until the 8th day of this month, when the proceeding will probably be terminated, before they ask to put something new into this bill, and particularly in this paragraph of this section.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Oklahoma?

Mr. WEBB. Yes.

Mr. CARTER. You expect to pass this bill before the 8th of this month, do you not?

Mr. WEBB. Yes; and you expect this decision by the 8th.

Mr. CARTER. Suppose you do not get the decision by the 8th of this month, and then this bill is passed?

Mr. WEBB. There is another branch of this lawmaking body where the gentleman may have his amendment offered.

Mr. CARTER. We should be very glad to offer it there, but we have not the privileges over there which we have in this House.

The CHAIRMAN. The paragraph under consideration provides that nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making lawful agreements, and so forth. The amendment offered by the gentleman from Oklahoma [Mr.

FERRIS] provides that it shall be unlawful for any corporation or person or persons to transport the products of any mine or mines, including coal, and so forth, unless they become common carriers under the act of 1887. The Chair fails to see how the amendment offered by the gentleman from Oklahoma can be germane to this particular paragraph. It may be entirely germane to other sections of the bill which have not yet been reached, but upon that the Chair is not now called upon to rule.

Mr. FERRIS. If the Chair has any doubt about it, I confess that the section has two independent propositions in it. The first is purely a labor proposition, and the second is a carrier proposition. I will offer it as a separate section, section 7½, and will strike out the word "provided."

The CHAIRMAN. The Chair will state that it is not in order to offer it as a separate section now, because we are considering section 7.

Mr. FERRIS. The chairman of the committee a moment ago, in answer to a question asked of him, said he was of the opinion that an amendment offered as a separate section would constitute an amendment to this paragraph and would come within the rule. If the Chair thinks otherwise, I will offer it as soon as the paragraph is disposed of.

The CHAIRMAN. The Chair will state that as long as there are any amendments to be offered to this particular paragraph it will be out of order to offer the amendment which the gentleman from Oklahoma proposes. The point of order is sustained.

Mr. FERRIS. I will withdraw the amendment at this time and will ask the Clerk to have it returned to me.

Mr. WEBB. I yield to the gentleman from Texas [Mr. VAUGHAN].

Mr. VAUGHAN. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add at the close of section 7 the following paragraph:
"Nothing in the antitrust laws shall be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business or from acquiring local exchanges from competitors for local business when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated and competition in the transmission of interstate toll messages is not interrupted nor interfered with."

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to make a point of order against that amendment at this point. I do not think it is germane to this section or paragraph.

Mr. VAUGHAN. I think it is germane, and I should like to be heard on the point of order, but I would not like to have it taken out of my five minutes.

Mr. FLOYD of Arkansas. Will the gentleman from Texas yield to me?

Mr. VAUGHAN. Yes.

The CHAIRMAN. Does the gentleman propose this as a separate paragraph or section?

Mr. VAUGHAN. I offer it as a separate paragraph to this section.

Mr. FLOYD of Arkansas. I make the point of order that it is not germane to this section.

The CHAIRMAN. The Chair does not think the amendment of the gentleman from Texas is in order at this time. It is not germane to the paragraph which is now under consideration.

Mr. VAUGHAN. Mr. Chairman, I should like to be heard on that for a moment, and to suggest that this paragraph proposes to exempt certain transactions from the operation of the antitrust laws.

Mr. FLOYD of Arkansas. Will the gentleman from Texas yield to me for a moment?

Mr. VAUGHAN. Yes.

Mr. FLOYD of Arkansas. I will state to the gentleman that it seems to me if it is germane anywhere, it is germane to the section relating to holding companies, which is section 8. I will state to the gentleman that there are a number of exceptions in that section, and it seems to me that section 8 is the one that will make unlawful the transactions that the gentleman desires to exempt, if anything in this bill does make them unlawful, so that there would be the proper place to offer it, provided, of course, it should be held to be germane at that point.

Mr. VAUGHAN. That being the case I ask unanimous consent to withdraw the amendment now and offer it to section 8.

The CHAIRMAN. If there be no objection, permission will be granted to withdraw the amendment.

There was no objection.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Pennsylvania [Mr. HULINGS].

Mr. HULINGS. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 24, line 21, strike out the colon after the word "commission" and insert a comma and the following:
"But no such agreement shall go into effect or become operative until the same shall have first been submitted to and approved of by the Interstate Commerce Commission."

Mr. CARLIN. Mr. Chairman, I want to understand whether we are now operating under the agreement that this debate is a part of the 40 minutes.

The CHAIRMAN. The gentleman is correct.

Mr. HULINGS. Mr. Chairman, it seems to me in reading this paragraph that as it stands it would give authority to these traffic associations to make pooling arrangements or lawful agreements as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but it does not distinctly give the Interstate Commerce Commission authority over the rule or the agreement that is made.

Mr. WEBB. I should like to make a statement. It was the idea of the committee that these agreements could not go into operation until they were O. K'd by the Interstate Commerce Commission.

Mr. HULINGS. I presume so.

Mr. WEBB. We think that is a reasonable conclusion to draw from the section or paragraph.

Mr. HULINGS. I doubt whether the language is clear.

Mr. WEBB. That was our intention.

Mr. HULINGS. The amendment makes that thoroughly clear, and I ask that the amendment be again reported.

The CHAIRMAN. If there be no objection, the amendment will be again reported.

The amendment was again read.

Mr. WEBB. I call the attention of my friend to the fact that this agreement is subject to the regulation or supervision of the Interstate Commerce Commission.

Mr. HULINGS. No. There is just where I think the failure is. The agreement is not subject. The matter about which the agreement may be made is subject to the regulation of the Interstate Commerce Commission.

Mr. WEBB. Of course the association is under the control of the Interstate Commerce Commission.

Mr. HULINGS. In my judgment it requires the amendment to make it clear.

Mr. MANN. Will the gentleman yield?

Mr. HULINGS. Certainly.

Mr. MANN. Is not this the distinction between the provision in the bill and the gentleman's amendment: That under the gentleman's amendment the agreement to fix rates before it goes into effect must be approved by the commission, and under the bill the rates go into effect and after that the commission may revise the rates?

Mr. HULINGS. That is precisely the point.

Mr. WEBB. Mr. Chairman, the committee wants to be perfectly frank with the House on both sides. If there is any doubt about the intent and scope of the provisions in the bill we want to accept the amendment so as to make it perfectly clear.

Mr. FLOYD of Arkansas. Mr. Chairman, I would like to have the amendment again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

The Clerk again read the amendment.

Mr. WEBB. Mr. Chairman, we will gladly accept that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS].

The question was taken, and the amendment was agreed to.

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, I shall not occupy all the time yielded to me for the reason that I desired to submit an amendment to the same effect as that offered by the gentleman from Pennsylvania [Mr. HULINGS]. I congratulate the gentleman from Pennsylvania [Mr. HULINGS] for presenting an amendment that is acceptable to the committee and the committee for accepting the amendment. There is no question whatever but what it was absolutely necessary that such an amendment should be adopted in order to protect the people and to carry out the purpose and intent of the section. I yield back the balance of my time.

Mr. VOLSTEAD. I yield five minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Chairman, like the gentleman from Iowa, I was about to offer the same amendment, and like him I wish to congratulate the members of the committee on accept-

ing the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS]. But, Mr. Chairman, I would like to ask the members of the committee one or two questions with reference to the paragraph as it stands. It reads:

Nothing contained in the antitrust laws shall be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement.

Now, I would like information wherein the antitrust laws now can possibly prohibit the conferring together and making of any lawful agreement.

Mr. WEBB. I want to say to the gentleman that we think the trust laws would not apply to that condition of affairs, but the Interstate Commerce Commission thought we ought to make the thing perfectly clear, and therefore the section.

Mr. CARLIN The mere meeting is thought by many to come within the law and might be construed to be a combination, and they want to make it clear, and that is the object of the provision.

Mr. MANN. If the gentleman will yield, they may have in mind the fact that when the law regulating railroad rates was passed four years ago, as gentlemen will recall, a lot of railroad officials met, and it was proposed to raise the rates in advance of the passage of the law. The bill under consideration provided that the Interstate Commerce Commission might suspend the proposed rates. President Taft threatened to have proceedings begun under the Sherman antitrust law and indict these people, whereupon the rates went glimmering. I suppose this is designed to allow them to do the thing that they tried to do then.

Mr. LENROOT. I remember the circumstances very well, and it was the Sherman law alone that prevented the increase of rates at that time until the amended law went into effect so as to permit suspension. Now, then, Mr. Chairman, this is in the disjunctive. The antitrust laws do not prohibit the making of any lawful agreement. They do not do that now; of course not. But the gentleman says that the conferring among themselves may be a violation of the Sherman law, and they wish to permit such conferences.

Mr. Chairman, if the conferences lead to something that means a violation of law, they ought to be subject to the antitrust laws.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. LENROOT. Certainly.

Mr. FLOYD of Arkansas. I will state that in the opinion of the committee these meetings of the traffic managers and officers of railroads are absolutely essential in order that officers and managers of different railroads may carry on business without friction and without complication and without annoyance to the traveling public. They must understand each other, and since the laws regulating interstate commerce have been on the statute books they have been compelled by the necessities and the nature of their business to have these meetings, conferences, and enter into arrangements; and yet they have felt that possibly under the strict interpretation of the Sherman law, if they were ever charged in the courts with a violation of the law, they might be held guilty of a violation of the Sherman Act. This is intended to lift them from under the ban of the existing law and to allow them to meet, confer, and understand each other, and to make any lawful agreements; but the exceptions in the provision expressly provide that their agreements shall still be subject to the regulation and power of the Interstate Commerce Commission. The amendment which we have just adopted, offered by the gentleman from Pennsylvania, makes that clear.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield to the gentleman from Wisconsin five minutes more.

Mr. LENROOT. Mr. Chairman, now, to recall a little of the history in connection with this same question, this identical proposition was up four years ago, in 1910. I then took quite an active part in securing an amendment almost identical with the one which has now been adopted. Another amendment which was also adopted prohibited any agreement of any character between railroads which were directly competing with each other. These amendments, with the assistance of the solid Democratic side of the House, were incorporated as a part of the Mann bill.

After we had improved the bill in that respect, improved it more and to a greater extent than this section now stands, a motion was then made to strike the entire section out of the bill, and that motion prevailed, and every Democrat, I believe, voted "aye," so that the provision went out of the Mann bill; and I am, I confess, a little surprised to find that it again creeps into this bill, brought in by the Democratic Party, who were then unanimously opposed to it. I am frank to say that, with the amendment just adopted, I have such confidence in the Interstate Commerce Commission that I do not know that the public interests will be injured if this remains in the bill, but certainly it was a most dangerous proposition before the adoption or the acceptance of the amendment offered by the gentleman from Pennsylvania [Mr. HULINGS]. I voted to strike it all out in 1910, and I shall vote to strike it out to-day, because, I may add, I can see no possible good to come from it in the way in which it is framed. So far as lawful agreements are concerned, they are permitted now. You have accomplished nothing there. So far as conferences are concerned, they are not under the ban of the law now unless there is something injurious to the public interest going on in those conferences, and if there is, I know of no reason why they should not be under the ban of the law.

I yield back the balance of my time.

Mr. VOLSTEAD. Mr. Chairman, I yield three minutes to the gentleman from Wisconsin [Mr. ESCH].

Mr. ESCH. Mr. Chairman, many of the practices of interstate carriers, if the Sherman antitrust law were strictly construed, would be held subject to the penalties of the act. Those violations have been blinked at, however, to a certain extent. The necessity for some conference agreements has long been recognized, provided such conference agreements were subjected to the supervisory control of the Interstate Commerce Commission, and in this very provision in this bill the committee is practically seeking to carry out a recommendation contained in the Republican platform of 1908, which reads as follows:

We believe, however, that the interstate-commerce law should be further amended so as to give railroads the right to make public traffic agreements, subject to the approval of the commission, but maintaining always the principle of competition between naturally competing lines and avoiding the common control of such lines by any means whatsoever.

The amendment offered by the gentleman from Pennsylvania, just adopted, carries out that further suggestion—that such conference agreements should be subject to the regulatory power of the Interstate Commerce Commission. President Taft, in his special message to Congress on January 7, 1910, wherein he recommended to Congress amendments to the interstate-commerce act, stated, among other things, as follows:

The subject of agreements between carriers with respect to rates has been often discussed in Congress. Pooling arrangements and agreements were condemned by the general sentiment of the people, and, under the Sherman antitrust law, any agreement between carriers operating in restraint of interstate or international trade or commerce would be unlawful. The Republican platform of 1908 expressed the belief that the interstate-commerce law should be further amended so as to give the railroads the right to make and publish traffic agreements subject to the approval of the commission, but maintaining always the principle of competition between naturally competing lines and avoiding the common control of such lines by any means whatsoever. In view of the complete control ever rate making and other practices of interstate carriers established by the acts of Congress and as recommended in this communication, I see no reason why agreements between carriers subject to the act, specifying the classifications of freight and the rates, fares, and charges for transportation of passengers and freight which they may agree to establish, should not be permitted, provided copies of such agreements be promptly filed with the commission, but subject to all the provisions of the interstate-commerce act, and subject to the right of any parties to such agreement to cancel it as to all or any of the agreed rates, fares, charges, or classifications by 30 days' notice in writing to the other parties and to the commission.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield the remainder of my time to the gentleman from Illinois [Mr. MANN].

The CHAIRMAN. The gentleman from Illinois is recognized for 25 minutes.

Mr. MANN. Mr. Chairman, this proposition now before us revives old times to me. I reported into the House four years ago a bill which became the amendment to the interstate-commerce act of 1910, containing a provision somewhat similar but better guarded than the one that is in this bill. The Committee on Interstate and Foreign Commerce had jurisdiction of the subject matter, and knew something about it. The present proposition comes in a bill reported from the Committee on the Judiciary, which has never made any investigation of railroad matters, and I assume does not pretend to know very much about the subject. It was not in the bill as originally drafted. There were a great many committee prints of this bill, and this never appeared in one of the committee prints. Mr. Clayton introduced a bill in the House on April 14, 1914, of which the present bill is the issue, and this provision was not in that Clayton bill introduced on April 14. It had never been suggested to the Committee on the Judiciary, so far as I can learn, that any proposition of this kind should be put into the antitrust bill until just before the bill was reported. The committee, having decided to incorporate in the bill a provision ex-

empting labor organizations and farmers' organizations from the operation of the antitrust law, concluded that it would even up the situation by a provision exempting railroads from the operation of the antitrust law.

What are the facts? The railroads everywhere do have some kind of an understanding as to rates between competitive points. I suppose it would be impossible between two points, where each of two railroads ran, for one to have one rate and the other to have a different rate. They have always in some way gotten together. Four years ago I proposed in the administration bill to insert a provision practically taken from the Republican platform authorizing railroads to make these agreements, the rates when made to be subject to the operation of law. This provision goes a little further than that in behalf of the railroads. This provision authorizes the officers of common carriers to confer among themselves without any restriction and without any limitation. There is a restriction now inserted in the bill that the rates they make must be approved by the Interstate Commerce Commission, but the right to confer is made absolute. You do not need anything more. They never need to make a rate by agreement when they can confer. The heads of a dozen railroads get together and stick their legs under the mahogany and say the rate from New York to Chicago shall be raised so much on a certain class of freight. There is no agreement necessary. All they need is the power to confer. There is no limitation in this section on the power to confer.

If they make an agreement and write it out, why, they have to submit that to the Interstate Commerce Commission, but after they confer each one goes out and has a rate sheet filed raising the rate. There is no agreement, only a conference, and the rate goes into effect.

Mr. BARTLETT. That is just as it was with the Steel Trust, which had its banquets and conferences.

Mr. MANN. Yes. Now, these conferences to-day are under the ban of the antitrust law. When the act of four years ago was to be passed and put upon the statute books, an act which gave the power to the commission to suspend a proposed rate, the railroads met, or their officials did, and after a conference each one said to himself or to somebody else, we will raise the rate. It was announced in the papers the rates were to be raised, but President Taft directed the Attorney General to file an injunction proceeding at St. Louis to restrain the railroads from putting into effect the proposed rates, and there was in addition a prosecution under the criminal provisions of the law, and the railroads quit. But they would have that power under this. Now, do not misunderstand me. I reported the provision of four years ago, not so strongly in favor of railroads in that bill as in this bill, and thereupon the Committee of the Whole House on the state of the Union made various amendments to the section, one of them very similar to the amendment just agreed to, called the Hulings amendment. We inserted in that section this provision:

Provided, That the proposed agreement before being made, and the rates, fares, charges, and classifications specified therein, shall be presented to and approved by the Interstate Commerce Commission.

That amendment was agreed to. The distinguished Chairman of the present Committee on Interstate and Foreign Commerce, which committee has jurisdiction of these matters, then the ranking Democratic member of my committee, made these few remarks on the subject of this legislation, among others:

Now, what is the object of this thing? The object of it is plainly not to benefit the people; it is not intended to apply to rates at any points except competitive points. The way stations by thousands along single lines of road, with no competition, will never be benefited. They may appeal and pray for help, but they will never get it under this section or any other of that sort. The whole object of it is to enable carriers to agree upon a stable basis of rates that they will all work under and not begin to compete one with the other. That is all there is to it.

The present chairman of the committee, the gentleman from Georgia [Mr. ADAMSON], is one of the best-posted men in this country on the subject of railroad legislation. He has been on the committee studying it now for nearly 18 years. That was the Democratic view which he expressed at that time. And, again, he said:

I was proceeding to say that the desire of these carriers is to escape competition and underbidding at competitive points only. They can only do that by agreeing upon an ironclad system of rates that they will all stick to. Of course that would be in violation of the antitrust law, because it prevents carriers from bidding against each other; but would it benefit even the competitive points—

And so forth.

And there is another very distinguished Member of this House who has been for some time a member of the Committee on Interstate and Foreign Commerce, who was then and is now a Democratic Member from Tennessee [Mr. SIMS], and he had this to say about this proposition which the Democratic committee has now reported:

It was boldly admitted by the gentleman from Illinois—

That was myself—

that this section does repeal and render nugatory so much of the Sherman antitrust law as applies to these agreements. Does any gentleman in this House want to go out and ask for a renomination or a reelection to this House admitting that he would willfully and with full knowledge vote to repeal pro tanto the antitrust law in any respect?

And the committee after inserting what was then called the Martin amendment, along the same lines as the Hulings amendment here, had another amendment proposed. Mr. Kendall, of Iowa, offered this amendment:

Provided, That in considering agreements contemplated by this section due regard shall be had in the maintenance of the principle of competition between natural competitive carriers, and no such agreement shall be approved between the carriers directly and substantially competitive with each other.

That is not in the pending proposition, and that was inserted in the Committee of the Whole House on the state of the Union, and after that came the amendment of my colleague [Mr. MADDEN], who has a similar motion pending here, to strike out the section which was No. 7, as this is No. 7, and we had a vote upon that. The committee divided, and there were ayes 102, noes 102. The amendment was not agreed to at that point. Tellers were asked for, and on tellers there were ayes 110, noes 91, and every Democrat in this House voted "aye," and every insurgent Republican—that is what they were called then—voted "aye."

Mr. BURKE of South Dakota. To strike out?

Mr. MANN. To strike out; and that was one of those times, which were not very numerous on propositions of that kind, when the gentleman from Illinois, in charge of the bill, got very badly licked. Just before this provision was stricken out in this bill in the House under these circumstances, a provision which then had been made much more beneficial to the people than this, the Senate considered a similar Senate bill and had stricken out the same section in the Senate. Of course, I can not comment upon how the individual Senators voted over there, but if I were not in a legislative body here I could say that every Democratic Senator voted to strike out. [Laughter and applause on the Republican side.]

Now, we have a provision brought in here by the committee which did not have jurisdiction of it, without consideration by the committee, to reverse the unanimous action of the Democratic side of this House four years ago, and the question with me is whether you have learned more and know more or whether you have forgotten what you did in the past. My distinguished friend from North Carolina might suggest that a committee with little knowledge on the subject found it easier to handle it than did a committee that had a great deal of knowledge on the subject.

The railroads have been trying to get this provision into the law ever since I have been a Member of this House. The Pennsylvania Railroad Co. and its counsel in every bill which has been suggested to be brought before this House on the subject of railroad legislation have asked that this provision be put into it. It has been suggested time and time again. The Interstate Commerce Commission has suggested it and urged it. President Taft urged it. President Roosevelt urged it. The railroads have all been for it. I do not say that it is a bad provision, because I supported a very similar one four years ago, although that one was better than this; but Congress, in close touch with the people and the shippers, has never been swerved from its opinion on this subject by the attitude of the men here who had been argued with by the big railroad officials.

The provision does destroy every semblance of competition between the railroads. It is true that the Interstate Commerce Commission has control over the railroad rates, but when this provision goes into the law there is no longer any competition. Now, competition is not merely over rates. Competition is largely over business, and while we never have proposed a pooling permit under the law, under this provision authorizing the railroad officials to confer lawfully they can make any sort of a conference or understanding they please in regard to rates or in regard to quantities of freight. But, of course, they will not be able to make a lawful agreement where they can find one railroad that does not live up to the agreement. Under the old system where railroads entered into these agreements there was a penalty imposed when a railroad broke the agreement. They can not make such an agreement as that unless it be approved by the Interstate Commerce Commission, but they can make their conferences and agreements in honor among themselves as they please.

And, after all, gentlemen, if you vote this in, do not ever chide me again. There never was a provision more bitterly opposed in this House than was this provision when I reported it four years ago. It takes you gentlemen on that side some time to catch up. I do not know that I am personally proud of being the leader of the Democratic side of the House four years in advance. Although I have pride in the Democratic membership, it takes four years for that membership to catch up. If you keep on you may catch up with the other good things I have proposed, but which you have voted down. [Laughter and applause.]

Mr. STAFFORD. Mr. Chairman, will the gentleman yield there?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Wisconsin?

Mr. MANN. Yes.

Mr. STAFFORD. I would like to have the gentleman's opinion whether under this phraseology railroads could enter into agreements as to rates and other matters for 50 years, and if it had the approval of the Interstate Commerce Commission it would be binding upon the railroads for that time or a longer time?

Mr. MANN. Well, you will notice they have left out of this provision a provision which was in the bill which I reported to the House, which was in effect that they could not enforce these agreements; that is, that an agreement entered into might be withdrawn at any time without penalty on the part of any railroad. But there is no limitation in this, as I recall it. Here is an agreement which, if the Interstate Commerce Commission approves, is binding, although it may place a penalty of a million dollars upon the railroad company which fails to live up to the agreement.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman again yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Iowa?

Mr. MANN. Yes.

Mr. GREEN of Iowa. If this section is enacted in its present form, is there any object in enacting the next section, which is intended to prevent the acquirement by holding companies of competing railroads?

Mr. MANN. Well, I will not undertake to say about that.

Mr. GARNER. I want to ascertain whether the gentleman is in favor of this second paragraph in section 7.

Mr. MANN. Well, if the gentleman is here—as he seldom is [laughter]—when we vote, the gentleman will find out.

Mr. GARNER. The gentleman is making an argument now which consumes considerable time, instructing the House and its Members how they shall follow him, and I want to find out whether he is in favor of this, so that I can follow him. [Laughter.]

Mr. MANN. It contains considerable instruction, too.

Mr. GARNER. It has nothing to do with the merits of this law.

Mr. MANN. How is the distinguished gentleman from Texas going to vote?

Mr. GARNER. I am waiting for the gentleman from Illinois to indicate how he will vote. [Laughter.]

Mr. MANN. Oh, no. You usually vote four years after I do.

Mr. HULINGS. Mr. Chairman, will the gentleman yield to a question?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Pennsylvania?

Mr. MANN. Yes.

Mr. HULINGS. Under the present arrangement there is nothing to prevent any of these railroads or their officers from conferring if they do not do anything, is there, under the present law?

Mr. MANN. If they confer for the purpose of raising rates, they are guilty under the law, or for the purpose of doing anything else that is in restraint of trade.

Mr. HULINGS. Can the railroads raise rates without the consent of the Interstate Commerce Commission?

Mr. MANN. They can not raise the rates if the commission suspends the rates, but ordinarily the rates are not suspended. The railway company files a rate sheet that goes into effect 30 days after it is filed unless the commission issues an order extending the time in which it shall go into effect. Then it may be extended for 10 months.

Mr. GARDNER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Yes; I yield to the gentleman.

Mr. GARDNER. I ask this question for my own information and enlightenment. The evidence adduced at the time of the investigation of the United States Steel Corporation shows that the Interstate Commerce Commission is aware of the fact that railroad traffic agreements exist, and that it utilizes those agreements and that no one objects. Now, does this wording which is proposed here, this proposed change in the law, permit more than that which already exists as a matter of practice?

Mr. MANN. Oh, yes; it goes further than what now exists, although what now exists is contrary to law.

Mr. GARDNER. Does it go substantially further?

Mr. MANN. It goes substantially further.

The CHAIRMAN. The question is on the amendment.

Mr. CARLIN. I yield to the gentleman from Arkansas [Mr. FLOYD] so much time as he may need.

Mr. FLOYD of Arkansas. Mr. Chairman, I have listened with great interest to the gentleman from Illinois [Mr. MANN]. I hardly know how to answer his position, because I have been unable to discover what it is; but I want to say to the gentleman that assuming everything he has said about the record vote on the proposition four years ago to be correct—and I do not question his statement, although I have not looked it up—we who voted against it four years ago will be no more inconsistent in voting for it now than he who proposed it four years ago is inconsistent in offering a motion to strike it out.

Mr. MANN. I did not offer a motion to strike it out.

Mr. FLOYD of Arkansas. Then I beg the gentleman's pardon.

Mr. MANN. My colleague, Mr. MADDEN, offered the motion this time and four years ago.

Mr. FLOYD of Arkansas. I beg the gentleman's pardon. I misunderstood the parliamentary situation.

Now, I desire to make this explanation: We have not considered this bill in the light of what we may have done in the past upon these questions, but the committee in charge of this bill have endeavored to bring in legislation that would be of value, and if there are any defects in the present law we have endeavored to remove those defects by appropriate legislation.

Now, the gentleman says that the Committee on the Judiciary has not jurisdiction of this proposition. I desire to take issue with the gentleman on that proposition. If such conferences or agreements are unlawful, they are unlawful by virtue of the provisions of the Sherman antitrust law, and under the rules of this House the Committee on the Judiciary has jurisdiction over that question. This matter was brought to the attention of the Subcommittee on the Judiciary having the bill in charge, and it was thoroughly investigated.

The matter was brought to our attention by representatives of the railroads, who explained that in the very nature of things they were compelled to meet, compelled to have these conferences, compelled to make arrangements, in order to carry on and conduct the traffic business of the railroads in the interest of the general public and to prevent conflicts and frictions in their dealings with the public; that it was necessary to have these conferences and meetings, and that since the enactment of laws upon the subject of interstate commerce they had been having these meetings; and yet, with their knowledge of the Sherman law and of the interpretations placed upon that law by the courts, they had always felt that if the Government should proceed against them under the terms of the Sherman law they might be adjudged guilty of a crime and punished for doing what the very nature of their business and the interest of the public require them to do.

But we did not depend upon the representations of the railroad people. We then took the matter up with the Interstate Commerce Commission, which has jurisdiction over this matter. While we did not go to the Interstate Commerce Committee of the House for information on that subject, we went to the great body of men, the Interstate Commerce Commission, who for years have been administering the affairs of interstate railroads, to the great advantage and to the general satisfaction of the public, and obtained their views upon the subject; and I desire to say that the provision reported in this bill was drawn by the Interstate Commerce Commission, and will be found in a letter of James S. Harlan, chairman of the commission, which letter I will put into the RECORD at the conclusion of my remarks. I will read the provision which was so drawn by the Interstate Commerce Commission:

Nor shall anything contained herein or in said antitrust law be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission and all such agreements shall be entered and kept of record by the carriers parties thereto, and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic, or existing laws against joint agreements by common carriers to maintain rates.

After this matter was brought to our attention, after we brought it to the attention of the Interstate Commerce Com-

mission, and they had approved the proviso in the language which I have read to you, we incorporated that provision into the bill, instead of the provision that was incorporated in the bill originally, and the provision that we bring before you has the approval of the Interstate Commerce Commission.

I have no apology to offer for the position of the committee upon this question. We have been endeavoring to bring in this legislation in such form that it will be beneficial to the business interests of this country and beneficial to the American people. If the Sherman law has been so interpreted as to work harm, or to prevent legitimate or necessary things, your committee believes it ought to be amended. We believe that it has been so interpreted in regard to fraternal, labor, farmers', and other associations. We brought in a provision to relieve those associations; and we believed also, when this matter was brought to our attention, when we understood the facts, that the railroads were entitled to relief in this respect; and we compliment the gentleman from Illinois [Mr. MANN] on being in advance of us, if he thinks this provision is right. In the preparation of this bill we did not hesitate to seek and obtain information from any source, and I disclaim that in any provision of this bill we acted from any narrow point of view, or that we hesitated to do a thing in the interest of capital or business, when we were convinced that the demands of justice required it.

Now, I desire to submit at this point two letters from the chairman of the Interstate Commerce Commission, James S. Harlan, and ask that they be printed in the RECORD.

The letters are as follows:

INTERSTATE COMMERCE COMMISSION,
Washington, April 22, 1914.

Hon. H. D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR SIR: I have the honor to acknowledge the receipt of your letter of this date inclosing confidential committee print of a bill offered by you to supplement existing trust laws. Immediately upon its receipt I called a conference of my colleagues, but in view of the absence of Commissioners Clements and Clark from the city we were not able to reach a conclusion this afternoon. I hope to convey to you the views of the commission early to-morrow afternoon.

Permit me to call your attention to the clause beginning in line 4 on page 6. It reads:

"But any agreement in the premises shall likewise continue," etc.

It occurs to me that the meaning would be made more clear by substituting:

"But any such matter that shall be made the subject of agreement by any such association shall likewise," etc. In other words, as I assume, it is the subject matter of the agreement and not the agreement itself that ought to continue under our regulating or supervisory jurisdiction.

Very truly, yours,

JAMES S. HARLAN, *Chairman.*

INTERSTATE COMMERCE COMMISSION,
Washington, April 24, 1914.

Hon. HENRY D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

DEAR SIR: Further acknowledging your letter of the 22d, inclosing a copy of the confidential committee print of a bill to supplement existing trust laws, and calling our attention to certain language in it commencing at the foot of page 5 and continuing through line 6 on page 6, I beg to say that the bill has had consideration by the commission.

We do not understand that the provision in any degree modifies existing laws forbidding the consolidation or merger of railroad corporations operating competing lines, but that it is intended to go no further than to legalize associations of officials of common carriers organized for the purpose of agreeing upon rates, classifications, operating rules, accounting, and other similar matters now subject to the jurisdiction of this commission.

Such associations have been in active existence for many years. They have stated and special meetings at which matters within our jurisdiction are the subject of discussion and conference and not infrequently of actual agreement; and often when no positive and affirmative agreement is reached such conferences are nevertheless followed by a concert of action among the participating carriers. These facts have been shown in contested cases before us, the testimony being offered by the complainants on the general theory that such agreements are unlawful. The commission, however, has never based any order on the hypothesis of unlawfulness in the action taken by the carriers as the result of any such conference or agreement, except in so far as any such agreement or concert of action might have some bearing upon the reasonableness or general lawfulness of the rate or practice in dispute before us.

The increasing stability in rates now observable in our transportation service results to no small extent from the conferences of the traffic associations of carriers. As a practical matter, therefore, we see no objection to what is sought by the provision in question. We do not understand that it is intended to modify the provisions of law forbidding carriers to enter into any contract or combination for the pooling of traffic or earnings, or to modify the prohibitions of law against agreements by which one carrier undertakes not to change a rate or rates except upon the consent of one or more other carriers. But to avoid any confusion on these points the following paragraph is suggested as a substitute for the paragraph of the bill commencing with line 24 on page 5:

"Nor shall anything contained herein or in said antitrust laws be construed to forbid associations of traffic, operating, accounting, or other officers of common carriers for the purpose of conferring among themselves or of making any lawful agreement as to any matter which is subject to the regulating or supervisory jurisdiction of the Interstate Commerce Commission, but all such matters shall continue to be subject to such jurisdiction of the commission, and all such agreements shall be entered and kept of record by the carriers parties thereto and shall at all times be open to inspection by the commission: *Provided*, That nothing in this act shall be construed as modifying existing laws prohibiting the pooling of earnings or traffic or existing laws against joint agreements by common carriers to maintain rates."

You will observe that the substitute above proposed embodies a clause requiring carriers to make a record of the agreements and understandings of their associations and to keep them open to inspection.

Very truly, yours,

JAMES S. HARLAN, *Chairman.*

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. GARNER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5168. An act for the relief of the King Theological Hall and authorizing the conveyance of real estate to the Howard University and other grantees;

S. 5254. An act authorizing the Secretary of the Interior in his discretion to sell and convey a certain tract of land to the Mandan Town and Country Club; and

S. 5673. An act to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States or their successors in interest," approved March 2, 1911.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5168. An act for the relief of the King Theological Hall, and authorizing the conveyance of real estate to the Howard University and other grantees; to the Committee on the District of Columbia.

S. 5254. An act authorizing the Secretary of the Interior in his discretion to sell and convey a certain tract of land to the Mandan Town and Country Club; to the Committee on the Public Lands.

S. 5673. An act to amend an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States or their successors in interest," approved March 2, 1911; to the Committee on the Public Lands.

ANTITRUST LEGISLATION.

The committee resumed its session.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. MADDEN].

The question was taken; and on a division there were—ayes 21, noes 36.

So the amendment was rejected.

Mr. GREEN of Iowa. Mr. Chairman, I offer the following amendment.

Mr. CARLIN. Mr. Chairman, I make the point of order that it is too late to offer an amendment under the agreement.

The CHAIRMAN. The Chair understands that the gentleman from Oklahoma is to offer a new section, but withholds that until the gentleman from Iowa can offer an amendment.

The Clerk read as follows:

At the end of the section strike out the period and insert a comma and add the following:

"Or authorize competing lines to make agreements with reference to the rates which shall be charged or the services rendered."

Mr. CARLIN. I understand, Mr. Chairman, that all time on this paragraph has expired.

Mr. MANN. Mr. Chairman, did I have any time left?

The CHAIRMAN. The gentleman had one minute.

Mr. MANN. I yield that one minute to the gentleman from Iowa.

Mr. GREEN of Iowa. That is all I want. I only desire to say a word with reference to this amendment. It is claimed here that the purpose of this bill is to further competition and not to restrain it. If this section is adopted as it stands, it will absolutely nullify the following section, which provides that holding companies may not hold or control competing lines. If gentlemen wish, in fact, to still preserve the competition feature of the present law, this amendment should be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

Mr. FOWLER. Mr. Chairman, I desire to offer an amendment. On page 24, line 21, after the word "Commission," insert these words: "and any Member of Congress."

The CHAIRMAN. The Chair will state to the gentleman from Illinois that an amendment has been offered at that particular place and adopted by the committee.

Mr. FOWLER. I do not understand that the amendment as I have offered it has ever been offered to this part of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 24, line 21, after the word "Commission," add the following: "and any Member of Congress."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken; and on a division (demanded by Mr. FOWLER) there were—ayes 8, noes 16.

So the amendment was rejected.

Mr. PLATT. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Section 24, line 24, after the word "rates," add the following:
"*Provided further*, That nothing in this act shall be construed as applying to associations of manufacturers conducted purely for profit and not for their health or for pleasure.

[Laughter.]

The CHAIRMAN. The question is on the amendment.

The question was taken, and the amendment was rejected.

Mr. TOWNER. Mr. Chairman, I offer the following as a new section.

The CHAIRMAN. Are there any further amendments to this paragraph. If not, the Chair recognizes the gentleman from Oklahoma.

Mr. FERRIS. Mr. Chairman, I have hesitated to offer an amendment to this section, because the Committee on the Judiciary have done so well, and I commend them for their good work and I am in sympathy with many of the provisions of the bill. But I wish to offer the following amendment.

The Clerk read as follows:

Page 24, line 24, after the word "rates," insert the following as a new section:
"SEC 7a. That from and after the passage of this act it shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas, or hydroelectric energy, either by rail, water, pipe line, transmission line, or otherwise, from one State, Territory, or District of the United States to any other State, Territory, or District of the United States, or to any foreign country, who shall not become a common carrier within the meaning and purposes of and subject to the act entitled 'An act to regulate commerce,' approved February 4, 1887."

Mr. FLOYD of Arkansas. Mr. Chairman, I make the point of order on that. I do not think it is germane.

Mr. FERRIS. Mr. Chairman, the point of order comes too late. The amendment has been debated.

Mr. BARTLETT. Oh, it has just been reported.

Mr. FERRIS. Oh, but it has been reported heretofore, and the point of order comes too late.

Mr. BARTLETT. Mr. Chairman, it seems to me that the point of order was raised and sustained when the same thing was offered as an amendment to the second paragraph of section 7. It was then withdrawn with a view of offering it as a new section, and the gentleman now offers it as a new section.

The CHAIRMAN. The Chair will state to the gentleman that the point of order was sustained when it was offered as an amendment to section 7. The gentleman now offers it as a new section.

Mr. FERRIS. And I proceeded to debate it, and did debate it, and after that some one asked that it be reported.

Mr. STAFFORD. But it was not reported.

Mr. FERRIS. It had been reported before, as I think the Chair will remember.

Mr. HARRISON. It had been offered as an amendment to the other paragraph.

Mr. BARTLETT. But it is offered now as a new section. It was withheld while these other amendments were offered.

Mr. HARRISON. It could not have been offered as a new section until now.

The CHAIRMAN. The RECORD shows that the amendment had not been reported. It was reported when it was offered as an amendment to the paragraph.

Mr. FERRIS. The Chair is not holding that it had not been read? It was read when I first offered it.

Mr. CARLIN. It was read out of place and out of time.

The CHAIRMAN. It was offered at that time as an amendment to the second section of paragraph 7, and it went out on a point of order. The gentleman now offers it again, and the Clerk has just reported it. What is the point of order made by the gentleman from Arkansas?

Mr. FLOYD of Arkansas. Mr. Chairman, I make the point of order that the amendment is not germane to the bill; that we have not undertaken in this bill, or in any paragraph of it, to regulate or define common carriers, but have been dealing with a criminal statute. What the gentleman seeks to amend is within the jurisdiction of another committee. This legislation is supplementary to the Sherman antitrust act regulating trusts and monopolies in restraint of trade. There is not a paragraph in it in which we undertake to assume jurisdiction over common carriers or to regulate in any way common carriers or define who shall be deemed common carriers or who shall not be deemed common carriers. The second paragraph of section 7, while it mentions common carriers, relates to certain agreements, conferences, or arrangements by common carriers, and is inserted for the specific purpose of relieving them from the operation of the Sherman antitrust law as a criminal statute in regard to such, and for no other purpose, and we submit that the amendment is not germane to any portion of this bill. That is a matter under the jurisdiction of the Interstate Commerce Committee. That is the committee that ought to deal with the matter embodied in this amendment.

Mr. HARRISON. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes.

Mr. HARRISON. The amendment offered by the gentleman from Oklahoma proposes to amend the act of February 4, 1887, which is the Interstate Commerce Commission act, and this bill does not propose to amend that.

Mr. FLOYD of Arkansas. There is not a paragraph in the bill that undertakes to amend the provisions of law relating to common carriers or the Interstate Commerce Commission act. We are dealing simply with the Sherman Act.

Mr. FERRIS. Mr. Chairman, the very first section of the bill, on page 19, which begins with line 15, specifically amends three different statutes wholly foreign to this bill. Section 7, the very paragraph that we have just concluded, in the second paragraph of it, specifically deals with common carriers. The gentleman in charge of the bill on the Judiciary Committee says that they did not assume jurisdiction in one breath and in the next breath he asserts that that section relieves common carriers from the laws that we now impose upon them by the Sherman Antitrust Act. I submit to the Chair, if the committee has jurisdiction to relieve common carriers from certain obligations imposed upon them by law, I can not fathom why we have not the same jurisdiction and the same power to impose additional conditions upon them, and if the rule works one way I can not understand how the gentleman could contend that offering this as a new section the committee is without jurisdiction to consider it.

Mr. BARTLETT. Mr. Chairman, it seems to me this is clearly violative of the rule of germaneness. In order that an amendment be germane it must be not only germane to the paragraph and the section, but germane to the bill and the purposes which the bill has in view. The very face of the amendment itself discloses that it proposes to do something which it is contemplated will put these companies described in this amendment not under the act of 1890, known as the Sherman antitrust law, but under the act of 1887, known as the interstate-commerce law, to regulate common carriers.

Mr. FERRIS. Does not the exemption afforded them on page 24 from lines 11 to 24 to that extent mention the Sherman antitrust law, and on page 19 does not the language from lines 15 to 24 and on over to the next page specifically amend three statutes foreign to this bill; and if not, why not?

It is amazing that the whole bill can be made up of amendments of the various statutes in another section that comes from the existing law in this identical section, and that an amendment trying to do the same thing in another paragraph should be held out of order.

Mr. BARTLETT. It is amazing that a gentleman of the intelligence of the gentleman from Oklahoma should get on a hobby here and ride it eternally in the House as he has done this proposition.

Mr. FERRIS. It is a pretty good hobby when you are trying to ride the Standard Oil and the water-power trusts.

Mr. BARTLETT. Now, Mr. Chairman, on the point of order I say this bill has reference solely to the creation of an addition to the Sherman antitrust law. The Committee on the Judiciary has no jurisdiction to consider propositions relating to interstate commerce except as to the effect of the law relating to interstate commerce. Now they propose to say—what? That no corporation or person shall not do—what? Shall not transport the products which they produce between the States; who shall not become a common carrier under the act of 1887.

Mr. Chairman, this bill which we are considering does not propose to deal with common carriers at all. There is nothing in it, except this provision; and the second paragraph of section 7, relating to common carriers, has reference to agreements which violate the Sherman antitrust law as was known in what we call the Trans-Missouri Transportation cases and the Traffic Association cases, which happened to be the first consideration of the Sherman law adjudicated by the Supreme Court; so this is an amendment not to the antitrust law, but an amendment to the interstate-commerce law. Upon its very face it declares that they shall not transport their products

unless they shall come within the meaning and purpose of the act of 1887, which has no reference to the control or regulating of trusts, but the sole purpose of the amendment is made to the act of 1887 and as amended in 1906 and 1910, and has reference solely to transportation and not to violations of the antitrust law. So that, upon its very face, it indicates that it is subject to a point of order, because it proposes to deal and does deal with an entirely different subject foreign to the one dealt with in this bill.

Mr. CAMPBELL. Mr. Chairman, if the gentleman from Oklahoma should introduce a bill embodying the subject matter of his amendment, then there is no question but the subject matter would direct that the bill be referred to the Committee on Interstate and Foreign Commerce rather than the Committee on the Judiciary. There is no question in my mind but this amendment covers the subject matter over which the committee reporting this bill now under consideration has no jurisdiction. The subject matter of the amendment is so important and so different from the subject matters that are referred to the Committee on the Judiciary that the Committee on Interstate and Foreign Commerce has sole jurisdiction, so that in my opinion the point of order is well taken.

Mr. FERRIS. Mr. Chairman, I do not desire to consume too much of the time of the committee, but I want to call the attention of the Chair and the committee just for a moment to this proposition. The Congress of the United States has begun on a trust program made up of three bills, the first of which is the trade-commission bill, which they said has nothing to do with pipe lines, common carriers, Standard Oil rates, and the water-power trust. That bill has been laid aside with a favorable recommendation. We are now considering a bill from the Committee on the Judiciary, dealing with all sorts of monopoly in every conceivable form and fashion and every conceivable way, and I want to ask the Chairman and the House if it is going to be the ruling of the Chair and if it is going to be the decision of the committee that a complete trust program shall be put through, ought we not to put through a measure dealing with the Standard Oil Trust or the water-power trust? We do not want to shoot wide of the mark; they are notorious monopolies in this country, and these are propositions with which we ought to deal. It is not enough to push them aside when we are dealing with trust legislation.

The section 3 that we amended Friday by including oil, gas, water power, and so forth, certainly is dealing with the subject, and, if for no other reason, that ought to render additional legislation on the same subject in order.

Again, this bill is wide in its scope. It deals with labor legislation in the first part of paragraph 7. It deals with stocks, bonds, and banking legislation in other sections. Why is it we can not deal with the most monumental of all trusts?

It is not sufficient for the House to say, it is not sufficient for the Chairman to say, every time a question is raised on a bill dealing with monopoly, that it is out of order, or it is germane, or not germane, when the identical section dealing with that particular proposition relates to carriers. It is remarkable in the extreme that the Committee on the Judiciary should in an amendment say they have the power to exempt carriers from certain obligatory duties, and in the next breath should say they have no right, and that it would be not germane to put upon a bill a provision putting duties upon them.

I do not know what the decision of the Chair may be, and I do not know what the disposition of the committee may be, but surely this House is in favor of declaring the pipe-lines and water-power trusts carriers to be common carriers and subject to the Interstate Commerce Commission. I can not fathom a proposition of running away from a question so important, so necessary, and so patent and so universally agreed to by everybody.

For years the Interstate Commerce Commission themselves upon their own motion have been trying to bring pipe lines under the jurisdiction of that commission. What happens? In comes the Standard Oil Co. and brings an injunction proceeding and enjoins them from coming under the protection of that law.

This is the first time, and it is the only time during this administration and this Congress, under the resolution adopted by the Democratic caucus, when we have any chance to get relief on this proposition. I believe a bill on trusts and monopolies might properly go to any extent and all its provisions would still be germane as parts of a bill that proposes to curb monopolies. What are the pipe lines? The worst monopoly in the country. What is the Standard Oil Co.? The worst monopoly in the country. What is the Water Power Trust? One of the worst monopolies in the country. Is there any reason why, in dealing with monopoly, we should not deal with the transportation question, which is the vital cord in the whole trust question.

It has been said, and well said, that he who controls the transportation controls the country, and it is very true. The men who control the pipe lines control the production of oil and the price of oil, both in the region of production and at the consumer's end; and even so with the power trust. I believe that a bill so comprehensive as to carry out the legislative antitrust program for an entire administration and for an entire Congress should include this transportation question. The Chair may be ready to hold that this section shall be considered at this time, or——

Mr. CULLOP. Mr. Chairman, will the gentleman yield at that point?

The CHAIRMAN. Does the gentleman from Oklahoma yield to the gentleman from Indiana?

Mr. FERRIS. I do.

Mr. CULLOP. Is not the purpose of this amendment to control the transportation of these products now, or regulate them where they are not controlled or regulated under the interstate-commerce law?

Mr. FERRIS. Precisely; and not alone that, Mr. Chairman, but the oil-transportation companies are all in the oil-production business themselves. The only market for crude oil that the independent producer has is the pipe-line company, which is a transporter, which transports it or refuses to transport it, as it elects to do. It then has it in its full control and sells it at what it will at its destination point.

Mr. CULLOP. Is not the further purpose of this amendment also to control a situation which now, because of the peculiar conditions of operating the pipe lines, can not be controlled by the Interstate Commerce Commission?

Mr. FERRIS. Absolutely; and the Commerce Court, under the Hepburn amendment, sought to do this very thing that I am trying to do; only I drew the amendment here a little more comprehensively, so as to be sure and include it. Then came along the Prairie Oil and Gas case, which I have before me, and knocked out this proposition of holding pipe lines as carriers. Judge Mack dissented in an able opinion, and the matter is now pending in the Supreme Court. This amendment does what the court indicated a former Congress could have done when we enacted that law. We can do it now. We ought to do it now. There is no use to postpone it. The American people deserve it. The trust question is being dealt with; we ought to do it now.

Mr. CULLOP. Mr. Chairman, as I read this amendment, it is not an attempt to amend the interstate-commerce law at all, but it is to put into this law a remedy for a condition which the Interstate Commerce Commission can not control for the want of legislation. There is no law upon that subject, and the language of the amendment very clearly shows that it does not attempt to amend the interstate-commerce law. It is an amendment to this bill on a matter that is not now regulated or under the supervision in any way of the Interstate Commerce Commission.

I want to call the attention of the Chair to the language:

> That from and after the passage of this act it shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas, or hydroelectric energy, either by rail, water, pipe line, transmission line, or otherwise, from one State, Territory, or district of the United States to any other State, Territory, or district of the United States, or any foreign country—

Now, listen to the language—

> who shall not become a common carrier within the meaning and purpose of and subject to an act entitled "An act to regulate commerce," approved February 4, 1887.

Now, by the very language of the amendment it clearly shows that the subject matter embraced in this amendment is not a subject under any provision of the interstate-commerce law, but it is a matter entirely outside of it and a matter that it can not handle, and for that reason it has a proper place here, and it is proposed to place it under the supervision of the different sections of this bill.

Section 3 was amended so as to include oil and gas and water-power production, so as to make the language of that section clearly cover those articles of commerce. Now, as those articles of gas and oil are transported in some of the States, and especially in the State of the gentleman from Oklahoma [Mr. FERRIS], it does not come under the provisions or regulations of the interstate-commerce law; but the pipe lines are so regulated and conducted that the commission can not obtain jurisdiction of the subject matter at all because of the manner in which the oil is transported. The very language of this section shows that it is not an amendment to the interstate-commerce law, but clearly belongs to and is a part of the subject matter

to be regulated in the legislation now proposed to be adopted by this measure.

If the Chair will turn to section 3 he will observe that that section was amended by the adoption of an amendment offered by the gentleman from Oklahoma so as to cover these two articles of commerce. It was then contended that as this bill was drawn it did not cover the subject of oil and gas and hydroelectric energy, and the bill was so amended. And it is now contended that the transportation of both oil and gas in some sections of the United States is so manipulated and controlled that they avoid coming under the Interstate Commerce Commission, or the act to regulate commerce passed in 1887 or any amendment thereto.

If that be true—and I assume no one here will attempt to deny that condition in relation to this matter—then where does it belong if it does not belong in this bill, and when is the time to adopt the amendment or some provision to regulate that important matter, if not now in the handling of this trust legislation?

These two things—oil and hydroelectric energy—constitute two of the greatest articles of commerce, and are absolutely controlled to-day by the trusts of this country; and while we are adopting this antitrust legislation bearing directly on this subject and kindred subjects, is not this the time when something controlling these articles of commerce should be incorporated into this measure? I call the attention of the Chair to the language of the amendment, showing that it is not an amendment to the interstate-commerce law of 1887, because it distinctly provides that it is not any part of that law, but these are articles entirely outside of the purview of that legislation and all of the amendments that have been made of it. I submit that it is in order here, and I hope we will incorporate in this measure provisions which will control these twin giants of monopoly and which have been remorseless in their exploitation of the people of the entire country. We should see to it that these two great combinations are not permitted to escape all legislation which will make them amenable to strict regulation.

The CHAIRMAN. Will the gentleman from Indiana permit the Chair to ask him a question?

Mr. CULLOP. Certainly.

The CHAIRMAN. If the gentleman from Oklahoma [Mr. FERRIS] were to offer a bill containing in effect the provisions offered by him in this amendment, to what committee of this House would it go? In other words, what committee would have jurisdiction of it? Would it be the Committee on the Judiciary or the committee to which the gentleman belongs, the Committee on Interstate and Foreign Commerce?

Mr. CULLOP. I shall be glad to answer the Chair as I understand that matter. While I do not think that question is important here, or I do not think it could have any bearing in the consideration of this legislation, I do say that the jurisdiction of the subject matter of this bill was properly in the Interstate Commerce Committee and not the Judiciary Committee, and I agree with the distinguished gentleman from Illinois [Mr. MANN] upon that subject. Nearly every question dealt with in this legislation is a proper subject for the Committee on Interstate Commerce, and does not belong to the Judiciary Committee at all. But I submit the test in deciding this question is not to what committee a bill embracing this question should be referred, but does the amendment contain subject matter directly connected with the objects covered by this proposed legislation? Measured by that test it is clearly germane here and in order.

If that question had been raised at the inception of this legislation, the Speaker of this House doubtless would have referred the bill to the Committee on Interstate and Foreign Commerce instead of the Judiciary Committee, because the subjects embraced in it are proper subjects of legislation for the Committee on Interstate and Foreign Commerce and not the Judiciary Committee. But the question the Chair is now asking, I take it, is not the proper test and does not settle this question. The subject matter covered by this amendment is germane to the legislation here proposed and to the legislation that has been adopted all along in the sections of the bill we are now considering.

Mr. FERRIS. Will the gentleman yield?

Mr. CULLOP. I will.

Mr. FERRIS. Mr. Chairman, my only thought was to supplement what the gentleman is saying by calling attention to the fact that on the second paragraph of section 7 that we have just disposed of and on which a long debate ensued the gentleman from Illinois debated what occurred two years ago. The bill from beginning to end is made up of matters that belong partly to this committee and to other committees, if caught at the inception, but they have gone to the committee, have received consideration, been reported here, and this House has jurisdiction of it, and we ought to go along with it.

Mr. CULLOP. Mr. Chairman, one thought further and I am through. Let me call the attention of the Chair to this proposition: That whenever any subject has been referred for regulation or supervision in any provision in this bill it has been referred to the Interstate Commerce Commission and not to the courts of this country. Running through every provision from the first word in it to the close of the provision the jurisdiction and settlement of questions in a primary sense are committed to the Interstate Commerce Commission and not to the courts in this country. The last amendment adopted here was a matter that did not put the regulation of it under any court in this country, but it put it under the regulation of the Interstate Commerce Commission. If that view of it be true, then this subject is germane here. If the standard of what committee it would be referred to is to be taken as a measure of the jurisdiction of this question, the last amendment was not germane, and a number of amendments that have been adopted during the course of the consideration of this bill are not germane, because the question was referred for arbitrament to the Interstate Commerce Commission and not to the courts of the land.

Mr. MORGAN of Oklahoma. Mr. Chairman, may I call attention of the Chair to a few points? In section 9, which provides—

> That from and after two years from the date of the approval of this act no person who is engaged as an individual, or who is a member of a partnership, or is a director or other officer of a corporation that is engaged in the business, in whole or in part, of producing or selling equipment, materials, or supplies to, or in the construction or maintenance of, railroads or other common carriers engaged in commerce, shall act as a director or other officer or employee of any other corporation or common carrier engaged in commerce—

And so forth.

Now, Mr. Chairman, if the committee had jurisdiction to control who shall be the directors of common carriers, why would not an amendment such as the gentleman from Oklahoma offers be germane? If it is appropriate to say who shall be directors of a common carrier in this bill, then it is appropriate to legislate on any subject that applies to common carriers; and if this amendment goes out on a point of order, will not we be compelled to take out of this bill section 9?

Mr. LENROOT. Mr. Chairman, with reference to the Chair's question to the gentleman from Indiana as to whether, if this amendment was introduced as an original bill it would go to the Interstate Commerce Committee, I submit to the Chair that that can not decide the germaneness of the amendment, for the reason that the sole standard is whether or not there is anything in this bill as it now appears before the committee to which this amendment is germane. If there is, it must be admitted, although in the first instance it might have gone to the Interstate Commerce Committee. If the Chair will recall, a little later on in the bill the subject of directors of banks is dealt with. If that had been introduced as an original bill it would have gone not to the Judiciary Committee but to the Committee on Banking and Currency.

Now, with reference to the germaneness of this amendment, I wish to submit an observation that has not been mentioned to the Chair, and that is that this is clearly germane under section 3 of the bill. In other words, section 3 of the bill has dealt with this very subject, and having done so this proposed amendment becomes germane. Section 3 deals, as amended, with interstate commerce in the product of the mine. It is provided that the owner or person controlling the product, or the transporter engaged in selling, is prohibited from arbitrarily refusing to sell that product.

Let me read to the Chair the amendment as it now stands:

> That is shall be unlawful for any corporation or any person or persons to transport the products of any mine or mines, including coal, oil, gas—

And so forth.

Now, then, we have dealt with the transporter of these very products in section 3, and this proposed amendment only does one thing. The section as it stands relates to arbitrarily refusing to sell, and all this does is to provide that they shall not engage in that transportation unless they shall become a common carrier. It has nothing whatever to do with any amendment of the interstate-commerce law in the slightest degree. It simply places a condition precedent on the transportation of this product of the mine which this committee has dealt with in section 3.

It seems to me clear that if this amendment had been proposed to section 3 after the adoption of the gentleman's amendment no one would have thought of raising the point of order upon it, and if that be true, it is certainly in order to offer it as a separate section.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. LENROOT. Yes.

Mr. FERRIS. Supplementary to what the gentleman has said, on page 24, the first paragraph of section 7 deals with labor conditions, and if the Chair is going to say as a test that the committee had no jurisdiction, that portion should have been referred to the Committee on Labor.

Mr. LENROOT. Yes.

The CHAIRMAN. But the Chair did not mean to intimate that that would be the test. The gentleman from Indiana simply suggested it to the Chair, and that is the reason the Chair propounded the interrogatory.

Mr. WEBB. Mr. Chairman, just a word or two. We are dealing here not with the creation of interstate common carriers, but with the acts of interstate carriers already established and the acts of individuals. We are dealing with combinations, contracts in restraint of trade, and immoral business practices. We are not undertaking to create common carriers, and that is all there is to my friend's amendment. He wants the committee considering an antitrust bill to force certain corporations to become common carriers, because they transport their own product from one State to another. It is not necessary to discuss that phase of it, but I doubt very much whether Congress can say that because a man transports his corn from one State to another on his own shoulders or in his own wagon that he can be compelled to be a common carrier. This very identical question is now pending before the Supreme Court of the United States. It comes from the Interstate Commerce Commission on an appeal, showing it is an interstate-commerce question, and I submit that this House in preparing an antitrust bill should not be put in the attitude of creating common carriers, and that therefore the amendment is not germane to this section or to the bill.

[Mr. DECKER addressed the committee. See Appendix.]

The CHAIRMAN. The Chair is ready to rule. The gentleman from Oklahoma [Mr. FERRIS] has offered an amendment as a new section which relates to the transportation of the products of any mine and provides that it shall be unlawful for any corporation to transport such product unless it becomes a common carrier within the intent and purpose of the special act entitled "An act to regulate commerce," approved February 4, 1887. In ruling upon the point of order it is not the province of the Chair to pass upon the desirability of such legislation or the importance of the particular amendment. If the Chair were to express his personal opinion he might be in sympathy with a good deal of what the gentleman from Oklahoma has said. But the Chair must pass upon the point of order under the rules and procedure governing such matters. This amendment does not on its face refer to any monopoly or restraint of trade or seek to prevent a monopoly in restraint of trade. The bill under consideration is a bill to supplement existing laws against unlawful restraints and monopolies. Reference has been made to the second paragraph of section 7, but as the Chair construes that paragraph it is simply intended to relieve certain officers of common carriers from the operation of the Sherman antitrust law under certain conditions set forth in the paragraph. The Chair is unable to understand how the amendment proposed by the gentleman from Oklahoma can be germane to a bill framed for the purpose of supplementing existing laws against unlawful restraints and monopolies. The Chair does not say it will not be in order at some future time in the consideration of this bill, but it certainly seems to the Chair, so far as this particular portion of the bill is concerned, that it is not germane, and for that reason the Chair sustains the point of order. The Chair would like to state, in addition, reference having been made by the gentleman from Wisconsin to section 3 and the amendment adopted by the committee a day or so ago, as a reason why this amendment is germane, that if the gentleman will read that amendment he will see that it simply provides that those in control, either as owners or transporters of the products of any mine, etc., shall not have the right to withhold such products from any responsible purchaser or, in other words, to use them for the purpose of crushing out competition. Quite a different proposition from that which is presented in the amendment now proposed. The Chair thinks that the amendment is not in order to this particular paragraph or section of the bill and therefore sustains the point of order.

Mr. TOWNER. Mr. Chairman, I desire to offer a new section.

The CHAIRMAN. The gentleman from Iowa offers a new section, which the Clerk will report.

The Clerk read as follows:

Page 24, after line 24, insert as a new section:

"That in any city, town, or county of the United States wherein a cooperative association is established for the purpose of producing or marketing a food product or products any person who shall directly or indirectly for the purpose of destroying competition, discriminate in price in the purchase of such food products or the materials thereof within such city, town, or county, or use other means the effect of which is to destroy competition or secure a monopoly in commerce, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court."

Mr. TOWNER. Mr. Chairman, this attempts to reach, and I think reaches, a very great evil which exists to such an extent that many of the States of the Union have already legislated to overcome it. Wherever a cooperative association is formed among the producers of food products large dealers in the same line of business at once try to drive the cooperative association out of business, and for that purpose will send into that territory their agents to purchase the products from the producers and endeavor by paying higher prices to drive out the cooperative association. The payment of higher prices for a time is for the purpose of destroying the competition of the cooperative association, put it out of business, and thus control the prices themselves. There is no law now in existence that exactly meets that condition with regard to interstate trade. For instance, to give a concrete example of the way this matter works, a cooperative creamery is established in some small town. If control is sought of the market by some large company or great combination of that character in an adjoining State they will send their agents to the town where the cooperative association is located and establish a receiving station—centralizers, as they are called.

Mr. WEBB. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from North Carolina?

Mr. TOWNER. Yes; I will yield.

Mr. WEBB. I thought that section 2 absolutely destroyed that practice.

Mr. TOWNER. I can not agree with the gentleman in regard to that. I can not even take the time to argue it. If that is the opinion of the committee, of course they will then be opposed to this amendment. But I think this amendment will make it so certain that there will be no question about it.

It is a very great evil. It injuriously affects more producers in this country than any other one thing to-day. In the State of Iowa there are many cooperative creameries established, and they are being put out of business by these "centralizers" from other States, who go into their markets and buy the products from the farmers at a higher price for a certain time, but whose sole object is to destroy the established creamery and control the market in their own interest.

Mr. FLOYD of Arkansas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Iowa yield to the gentleman from Arkansas?

Mr. TOWNER. Yes.

Mr. FLOYD of Arkansas. I did not catch the full purport of the gentleman's amendment. Can the gentleman briefly state it?

Mr. TOWNER. I can not state the purport more succinctly than to state its terms. My amendment reads:

That in any city, town, or county in the United States wherein a cooperative association is established for the purpose of producing or marketing a food product or products, any person who shall directly or indirectly for the purpose of destroying competition discriminate in price in the purchase of such food products or the materials thereof within such city, town, or county, or use other means the effect of which is to destroy competition or secure a monopoly in commerce, shall be deemed guilty of a misdemeanor—

And so forth.

Mr. WEBB. Mr. Chairman, I want to make this suggestion to the gentleman: We have absolutely no authority to pass that sort of an amendment. The gentleman is asking Congress to go into a city or a little town or village and regulate the affairs of business there. That does not relate to interstate commerce at all.

Mr. TOWNER. Oh, the gentleman is mistaken. This amendment would be effective only with regard to those engaged in commerce, and your bill says "commerce" is interstate commerce. The gentleman should not think that I do not know this bill operates only in interstate commerce. That is the great difficulty now. Very many States have legislated and do control this matter in the States, but that is not the most serious trouble. The serious trouble comes from those large combinations outside of the States and which the States can not control. This bill is limited in its terms and applies only to operations in interstate commerce.

Mr. GARNER. But the gentleman's amendment does not say anything about interstate commerce.

Mr. TOWNER. Oh, I beg the gentleman's pardon. It does. It says "commerce," which you define by this bill to be interstate commerce. It is limited strictly to that.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. TOWNER. Mr. Chairman, I would like to have five minutes more.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. TOWNER. Now, Mr. Chairman, allow me to make a further statement in regard to this amendment. Certainly it meets a real evil, and if gentlemen desire to make this bill of benefit to the people of the United States they ought not to object to this amendment to it.

The products of the Iowa creameries last year sold in the Chicago market at the average price of 33 cents a pound, and yet the average price received by the farmers for their butter fat was only 25 cents a pound. The "centralizers," those controlling their market, made 36 per cent on the butter and had a margin of 20 per cent in addition on the overrun, for a pound of butter fat will produce 1.20 pounds of butter. Two of the cooperative concerns paid the farmers 34¼ cents a pound, or more than the Chicago prices.

Now, if you allow the destruction of these cooperative associations, not only of creamery and dairy products, but all other associations of that character—voluntary associations of the farmers who put directly their product on the market—if you destroy them and drive them out of business, you put into the hands of these "centralizers," who control the markets, the power to destroy competition and enable them to pay the farmers just what they choose for their product.

Mr. METZ. Will the gentleman yield for a question?

Mr. TOWNER. Yes.

Mr. METZ. In New York City we have no dairies and no cows, and we have got to get milk from outside. Now, suppose that across the line in New Jersey there is a town which has a cooperative concern like the one the gentleman speaks of. The milk dealer in New York City is shy in milk and must get a supply. He goes to New Jersey and buys milk from the farmers at a higher price than the cooperative concern is paying, for the purpose of getting milk to take it to New York. Would that be permissible under your amendment, or must the city of New York go without milk?

Mr. TOWNER. I will say to the gentleman that this bill could not apply in any case unless the object and purpose was to destroy competition or establish a monopoly or drive out a producer.

Mr. METZ. The purpose is to get the milk, and if they take it away that town has got no milk.

Mr. TOWNER. This amendment is limited strictly to cooperative associations. It meets directly a real need; it meets directly an evil that is growing throughout the United States and needs immediate relief.

Mr. METZ. You prohibit anybody buying from the dealer or producer at a higher price the thing which is purchased by the cooperative concern.

Mr. TOWNER. I will say to the gentleman that there can be nothing that will so bring down the price of food products to the ultimate consumer like the destruction of these combinations that control them. The middlemen are the people who raise the prices. Butter is sold in the Chicago market at an average price of 33.92 cents for a whole year, and yet the farmers receive less than 25 cents for their product. The farmers will receive a higher price and the consumers will pay a lower price if you will encourage cooperation in the production of food products. I sincerely hope this amendment may be adopted.

Mr. GREEN of Iowa. Mr. Chairman, if there is any necessity for section 2, there is also special necessity for the converse, which is found in the amendment of my colleague. Section 2 provides that any person who shall discriminate in price with intent to injure a competitor between different purchasers of commodities shall be subject to the penalties of the act. This amendment provides, in effect, that anyone who shall discriminate between sellers—that is, persons who are bringing various products to him to be sold—shall also be subject to the penalty where the object and purpose is to destroy competition or to obtain a monopoly. As my colleague has suggested, it strikes at an evil that has been maintained and been growing for a long time in the section of country which we represent. A very large creamery is maintained in the neighboring State of Nebraska, and that creamery makes a practice of overbidding and outbidding any concern that may start up in competition with it in the neighboring State. The only way this evil can be reached is by some such provision. I am very much inclined to think it ought to have been included in section 2.

I know it is said that these acts are already reached and covered by the Sherman Act. It is true they are, if there is any restraint of trade or if monopoly is intended to be acquired, as I think; but the gentlemen upon the other side have all along been contending that similar acts were not covered and not reached by the Sherman Act. If so, then this provision which has been introduced by my colleague [Mr. TOWNER] is absolutely necessary in order to reach actions of this character.

Mr. FITZHENRY. Mr. Chairman, I rise to oppose this amendment. It seems to me it should be defeated, if for no other reason than the manner in which it is drawn. It provides that in any city, town, or county in the United States where a cooperative association is established for the purpose of producing or marketing a product any person who shall, directly or indirectly, for the purpose of destroying competition, discriminate in price in the purchase of such food products or other material within such city, town, or county shall be subject to the penalties provided. It provides, first, for the location of the cooperative institution in a certain city, town, or county, and limits its operation to the city, town, or county, and clearly covers intrastate and not interstate commerce. It is true that in the following phrase these words are used:

> Or use other means the effect of which is to destroy competition or to secure a monopoly in commerce.

That is such a vague provision that it ought not to be written into the law at this place.

Any merit that there might be in this proposition is all covered by the Sherman antitrust law, and the adoption of this amendment at this time will simply limit the remedies of the people against the institution which it is aimed against.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. FITZHENRY. Yes.

Mr. GREEN of Iowa. Is the gentleman aware that you have much the same provision in section 2 with reference to the discrimination in price of commodities, which uses similar language? It refers to "purchasers of commodities in the same section."

Mr. FITZHENRY. Section 2 is to promote competition and not to limit it as is the idea here, and then section 2 is aimed against monopoly, a concern being engaged in interstate commerce coming into a particular locality and lowering the price, destroying the competitor, and then raising the price again. It covers a train of events.

Mr. WEBB. If the evil practices detailed by the gentleman from Iowa are interstate in their operation and effect, he defines very clearly a case which would come within the provisions of section 2 of the Sherman antitrust law, which is plain and specific, and which would break up the practice which he inveighs against and which ought to be broken up. It reads:

> Every person who shall monopolize or attempt to monopolize or combine or conspire with any other person to monopolize any part of trade among the several States—

And so forth.

The acts which he complains of are covered by the Sherman antitrust law if they are interstate. If they are intrastate, he can not complain to Congress, because we have no power to remedy it. He must go to the State legislature and get them broken up by an act of that body, as we have done in North Carolina. Two or three months ago this same practice was tried on the people of the city of Wilmington, N. C., and the grand jury indicted them under the antitrust laws of our State and put them out of business and broke it up—the practice—by imposing fines on the parties to the practice.

Mr. GREEN of Iowa. Does the gentleman say that the acts attempted to be reached by section 2 are not done in restraint of trade?

Mr. WEBB. There it is the individual act, and the discriminating act itself is condemned.

Mr. GREEN of Iowa. That is what this is.

Mr. WEBB. Here you have a perfect monopoly described by the gentleman from Iowa [Mr. TOWNER] describing every detail, which makes it a monopoly or an attempt to monopolize, and comes within section 2 of the Sherman antitrust law.

Mr. GREEN of Iowa. It comes in the same way under the provision you have in section 2.

Mr. WEBB. This is not the place to offer the amendment. It would mutilate section 7 and has nothing to do with the preceding parts of the same section. The law is ample to cover the condition described, and I trust the House will not adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was rejected.

The Clerk, proceeding with the reading of the bill, read as follows:

SEC. 8. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition is to eliminate or substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to create a monopoly of any line of trade in any section or community.

No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such acquisition, or the use of such stock by the voting or granting of proxies or otherwise, is to eliminate or substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to create a monopoly of any line of trade in any section or community.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation engaged in commerce from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to eliminate or substantially lessen competition.

Nothing contained in this section shall be held to affect or impair any right heretofore legally acquired: *Provided*, That nothing in this paragraph shall make stockholding relations between corporations legal when such relations constitute violations of the antitrust laws.

Nor shall anything herein contained be construed to prohibit any railroad corporation from aiding in the construction of branch or short-line railroads, so located as to become feeders to the main line of the company so aiding in such construction, or from acquiring or owning all or any part of the stock of such branch line, nor to prevent any railroad corporation from acquiring and owning all or any part of the stock of a branch or short-line railroad constructed by an independent company where there is no substantial competition between the company owning the branch line so constructed and the company owning the main line acquiring the property, or an interest therein, nor to prevent any railroad company from extending any of its lines, through the medium of the acquisition of stock or otherwise of any other railroad company, where there is no substantial competition between the company extending its lines and the company whose stock, property, or an interest therein, is so acquired.

A violation of any of the provisions of this section shall be deemed a misdemeanor, and shall be punishable by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Mr. VOLSTEAD. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Strike out all of section 8 and substitute the following:

"SEC. 8. (a) That it shall be unlawful to own, hold, or otherwise use any share of any capital stock of any corporation so as to aid in carrying into effect, creating, or maintaining any contract combination in the form of trust or otherwise, or conspiracy in restraint of commerce or to own, hold, or otherwise use any such share so as to aid in effecting or attempting to effect a monopoly or any combination or conspiracy to monopolize any part of commerce. In addition to any punishments prescribed by existing law, it is provided that as a penalty for a violation of this provision all earnings that may accrue upon any share of capital stock while so unlawfully owned, held, or used shall be forfeited and belong to the stockholders of the corporations having issued the same whose shares are not then unlawfully owned, held, or used. And none of the shares of such stock while so unlawfully owned, held, or used shall entitle anyone to vote or otherwise participate in the election of any director, trustee, officer, or employee of the corporation having issued such share or to otherwise participate in the management or control thereof.

"(b) No corporation shall issue any share of capital stock or borrow any money to acquire any part of the capital stock of any corporation engaged in commerce, and the acquisition of any such stock by any such means is prohibited. Nor shall any share of capital stock of any corporation engaged in commerce be acquired by or on behalf of any other corporation by exchanging therefore directly or indirectly any share of the capital stock of another corporation. As a penalty it is provided that all earnings that may accrue upon any share of stock hereafter acquired in violation of this paragraph shall, while retained directly or indirectly by the corporation acquiring the same, be forfeited and belong to the other shareholders of the corporation having issued the same. And none of the shares of stock acquired in violation of this paragraph shall, while so retained, entitle anyone to vote for any director, trustee, officer, or employee of the corporation having so issued such stock, or to otherwise participate in the management or control thereof. This paragraph shall not prevent any bank, banking association, or trust company engaged as a business in receiving deposits from using such deposits to acquire, either by purchase or as security, any share of capital stock of a corporation engaged in commerce.

"(c) Unless otherwise authorized by the Commissioner of Corporations, no stock or any bond or obligation due more than two years from the date of issue shall be issued by any corporation engaged in commerce for less than par or until the fair market value thereof shall have been paid in cash into the treasury of the corporation. Said commissioner may, however, on application, permit any issue for less than par and for property in place of cash if it shall appear to him that it is reasonably necessary and that a fair consideration is actually received for such issue. Stocks, bonds, and obligations issued in violation of this paragraph shall be void.

"(d) That no corporation engaged in commerce shall declare any dividend except from the net profits arising from its business; nor shall it divide, withdraw, or in any way pay to the stockholders, or any of them, any part of the capital stock of such corporation, or any of the proceeds of the issue or sale of any such stock, unless it shall first be made to appear to the Commissioner of Corporations that it is reasonably necessary for the purpose of maintaining the credit of the corporation or to carry on its legitimate business. Any person who shall violate or participate in violating any provision of this paragraph or suffer or permit any violation thereof shall be individually liable for all the debts of the corporation and all shares of stock issued in violation of this paragraph shall be void.

"(e) That paragraphs (c) and (d) of this section shall not apply to any corporation whose capital stock, including bonds due more than one year from their date of issue, shall be less than $2,000,000 par value, unless the Commissioner of Corporations shall find and certify as to any corporation that it is a part of some combination that is so conducted as to make it substantially a business unit with more than $2,000,000 in capital including such bonds; or unless said commissioner shall find and certify as to any corporation that it controls more than one-half of all commerce in its line of commerce in any section that includes two or more States. Upon making such certificate, a copy thereof shall be delivered to the corporation affected, and from the date of such delivery this section shall apply to such corporation, and no part of this section shall apply to any corporation subject to regulation as a common carrier under the act entitled 'An act to regulate commerce,' approved February 4, 1887, and amendments thereto. Nor shall this section be construed to repeal any provision of the antitrust laws."

Mr. VOLSTEAD. Mr. Chairman, I assume that it is useless at this time to try to make this law any stronger by offering any amendments. We have to-day exempted labor organizations from the Sherman Antitrust Act; we have also exempted railway companies so as to permit them to stifle competition, and now section 8 is submitted to authorize the formation of trusts. I called attention to this section some days ago. I have listened patiently for any explanation of this section that would show that my criticism is not justified, but so far I have heard no such explanation.

I again call attention to the third paragraph of this section 8, and again repeat that it clearly permits corporations to consolidate into trusts. Clearly permits the creation of a community of interests that will eliminate anything like competition. I am not going to explain this feature any further than I did a day or two ago. Anyone who will read it carefully will come to the same conclusion that I have come to. I want to explain briefly the nature of my amendment. The first paragraph of the amendment attempts to compel corporations to unscramble their own eggs. It attempts to make it unprofitable for corporations or individuals to hold stock in violation of the Sherman Antitrust Act, and as such to induce them voluntarily to separate and organize along legal lines. If we depend on the courts to set aside these combinations, we know from past experience that it is ineffectual.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. I yield for a question.

Mr. BARTLETT. I could not get the purport of the gentleman's amendment. Does his amendment, like the section, deal solely with holding companies?

Mr. VOLSTEAD. It deals with all combinations through stock ownership.

Mr. BARTLETT. I understand this section 8 deals with holding companies only.

Mr. VOLSTEAD. No; it deals with all combinations through stock ownership. Paragraph 3 of the section deals solely with holding companies, but paragraphs 1 and 2 deal generally with stock consolidation of corporations, whether holding companies or not. Paragraph 2 of the amendment which I have offered was suggested in the hearings on this bill. Almost the only method adopted by corporations in forming these consolidations is by the issue of their own stock in exchange for the stock of the corporation that they seek to acquire. Corporations do not invest surplus money which they may have in the corporate stock of another corporation. On the other hand, they create an additional amount of stock and take that stock and use it for the purpose of trading for the stock of the corporation they seek to acquire. I have drawn the second paragraph so as to prohibit that practice. If that practice was prohibited, I do not believe we should have very much trouble about the formation in the future of other consolidations of corporations by reason of stock ownership. The third and fourth paragraphs of my amendment present nothing particularly new; like provisions can be found in almost any statute that seeks to regulate corporations.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. VOLSTEAD. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. VOLSTEAD. Mr. Chairman, I have sought not to apply paragraphs 3 or 4 to the small corporations that only incidentally do an interstate business. I have limited those two provisions to corporations with a capital stock of $2,000,000, but in defining capital stock I include the bonds. You can find provisions like those two in the Massachusetts statute or in the New Jersey statute. It seems to me that when these cor-

porations go into interstate commerce we have a right to say to them, "You must comply with provisions of this class, provisions that are recognized generally as reasonable." I simply submitted them as such. I realize it is useless for me to attempt to convince this committee, but I want to impress upon it that it is not safe to go before this country with a provision such as you have in section 8. Here is a provision that clearly wipes out for all practical purposes the Sherman Antitrust Act so far as it prohibits combinations in restraint of trade. The Democrats and the Republicans stand pledged to the maintenance of the Sherman Antitrust Act. Do you believe that you can deceive the people into the belief that you are passing an effective statute? In some way this statute may soon reach the courts. When it does the court will give it the construction that its plain language clearly warrants, and when they do you will have a reckoning. No doubt you expect this bill to be rewritten in the Senate. I do not believe you expect this bill to become a law or you would try to correct it in this House. It certainly does not add to the standing or dignity of the House by passing such a political makeshift as this.

Mr. THOMPSON of Oklahoma. Mr. Chairman, I regret the action taken by the Banking and Currency Committee when it met the other day and agreed not to consider rural-credits legislation immediately, but to postpone action until the antitrust program is out of the House. This means that there will be no legislation on the subject of rural credits at this session of Congress. Mr. Chairman, I conducted a filibuster in this House on the 14th of last month, in the interest of legislation for the farmers and laborers of this country, which is more important, in my opinion, to the American people than the tariff, a commercial system of banking, or the antitrust acts. We were assured by the leaders of this House, if the Banking and Currency Committee would report a bill, it would be considered at this session. I desire to call attention that nearly a month has passed, and the Banking and Currency Committee has not held a meeting to consider the question. I am informed that some, if not all, of the Democratic members of that committee met informally the other day and, by a majority vote, decided not to consider this question until after the antitrust bills had been disposed of in the House. No one is so simple as not to be able to understand what this means. We all know that this legislation has been put in cold storage and will be strangled, so far as this session of Congress is concerned. Had the Banking and Currency Committee met immediately after the 14th of May and begun the consideration of this question, on the report of the subcommittee, which had been holding sessions since last November, it might possibly, with the assistance of H. Parker Willis, of the Wall Street Journal of Commerce, who prepared the banking and currency bill we passed last year, and who received $3,500 for that work, have reported to Congress, before the antitrust program is out of the way, a bill on this subject. This Congress, if this had been done, could have passed a bill on this subject at this session.

Mr. Chairman, if this legislation is not passed at this session of Congress the people will know where to place the blame. It will rest on the Banking and Currency Committee. The action of that committee in postponing the consideration of this subject until the antitrust program is completed means that it will take a month after that date before a bill can be reported. That will be some time in July, and insures death to this legislation at this session. Mr. Chairman, the widespread demand for this legislation among the American farmers has been demonstrated to me by letters from all parts of the country. I have just received a letter inclosing one addressed to Mr. Bryan. It is so simply worded, so earnest in purpose, and so appealing in tone that I desire to read it into my remarks to impress upon the Congress that a great mistake is being made by postponing action which means so much to the American farmer. He has suffered long and patiently; he has seen the earnings of his family taken to build battleships, to construct the Panama Canal, to dig out rivers and harbors, to build cities and foster and encourage manufacturing industries, to wage costly wars that people of islands beyond the seas might be free—all this he has seen and borne without complaint; but I warn you if this piece of legislation so vital to the welfare of himself and family is put to death in the House of Representatives he will demand an accounting; he will visit his wrath on the heads of those who prove faithless in this hour which is fraught with so much promise to him. Mr. Chairman, the letters I refer to read:

ABERDEEN, S. DAK., *May 28, 1914.*

Hon. J. B. THOMPSON,
Washington, D. C.

MY DEAR SIR: I inclose a letter which I had intended to send direct to Mr. Bryan, but upon reading your remarks in the CONGRESSIONAL RECORD of May 22 I concluded to inclose it with one to you upon the matter of the rural credits bill, for which you have been so nobly contending. The farmers of the great Northwest will be in a sad plight this fall if they are not able to borrow money to protect the abundant crop which at this time bids fair to excel any other year. As a consequence of several bad years, these crops will have to go on the market at thrashing time, and that means a price below the cost of production. The farmers of the Northwest are living in hopes that this bill may become a law and in effect before the crop is disposed of.

God bless you and give you success in your efforts.

Very respectfully, yours,

C. H. CREED, Sr.

And the letter addressed to Mr. Bryan reads as follows:

ABERDEEN, S. DAK., *May 28, 1914.*

Hon. W. J. BRYAN,
Secretary of State, Washington, D. C.

MY DEAR SIR: By way of introduction I will say that I am the founder of the Dacoma Industrial Chautauqua, near Aberdeen, which platform you have graced several times, which doubtless you remember distinctly, although you may have forgotten the manager. I wish to send greetings in behalf of the agricultural interests of this section for the great work you have done since entering upon the great office which you have so ably filled and for the efficient work in behalf of the interests of the farmers of the whole country. One thing more ought to be done before Congress adjourns, and that is the passage of a rural credits bill. The present outlook is good for an immense yield of small grain, and under the present system of commerce the great bulk of this crop will have to be marketed at a very low figure—below the actual cost of production—if the farmers can not borrow money at reasonable rates against their stock of grain and get a reasonable price, based upon the law of supply and demand. We are in hopes that President Wilson—God bless him—and you can see the great need of the enactment of this measure at the present session of Congress, and for this purpose we are writing this original request that you might be the means of giving us the relief which we so much desire.

God bless and give you abundant success in your work.

Most sincerely, yours,

C. H. CREED, Sr.

Mr. Chairman, if this legislation is not reported at an early date, I shall avail myself of all the power the rules of the House permit to force some action. I will not sit idly here and permit this legislation to be slaughtered in the House by its supposed friends. We were told the other day when I was making a fight for the consideration of this rural credits bill that the banking and currency bill passed last year extended credit of $369,000,000 to the farmers of this country. I congratulate myself that I was partly responsible for this credit extended to the farmer; but I desire to call attention in this connection to the fact that the regulations under which these loans may be made are as follows:

First. Real estate security must be farm land.

Second. It must be improved.

Third. There must be no prior lien.

Fourth. The property must be located in the same Federal reserve district as the bank making the loan.

Fifth. The amount of the loan must not exceed 50 per cent of the actual value of the property upon which it is secured.

These loans must not be for a period longer than five years, and the total of such loans by any bank must not exceed one-third of its time deposits and must not in any case exceed the capital and surplus of the bank. The time deposits in the district which I represent, according to the last report made to the Comptroller of the Treasury by the national banks, are:

Murray County, $22,350, and the amount loaned on real estate under this law could only be $7,450.

Garvin County, $129,293.19, and the amount of loans would be restricted to $43,097.73.

McClain County, $26,174.92, and the amount of loans would be restricted to $8,724.97.

Cleveland County, $2,246.12, and the loans would be restricted to $768.70.

Oklahoma County, $543,221.75, and the amount of loans would be restricted to $181,073.92

In Logan County there are no time certificates of deposit, and there would be no loans on farm lands.

In Payne County the time deposits are $80,589.34, and the amount of loans would be restricted to $26,263.10.

Mr. Chairman, I desire to say in conclusion that Mr. WINGO, of Arkansas, Mr. RAGSDALE, of South Carolina, and Mr. NEELEY of Kansas, all of whom have ever been steadfast friends of the farmer, I am informed, voted for the immediate consideration of this legislation. I hope we may build a fire on the backs of those who voted against the interests of the farmers and laborers of the country, which will cause them to wake up and legislate in the interest of this great industry, which comprises 40 per cent of the population of our country.

Mr. Chairman, I voted for the Thomas amendment this afternoon to the antitrust act, and I want to call attention to a report that is carried this afternoon in the Evening Star of an interview with the President which confirms me in the view that I took at that time when I voted for the Thomas amendment. I did not believe that the Webb amendment was broad enough to exempt labor and farmers' organizations from the terms of

the antitrust act. The Star carries this report, in talking about the interview with the President:

He was asked numerous questions as to pending legislation, and especially as to the amendments to the Clayton bill touching upon the exemption of labor unions from the operation of the Sherman antitrust law. He does not believe that the amendments agreed upon by the administration and Congress give the exemptions mentioned.

That is in exact accordance with the view that I had when I voted for the Thomas amendment. The article continues:

On the contrary, he thinks there is no more immunity for labor and farm organizations, as far as violations of the law are concerned, than any corporation or other organization.

Mr. Chairman, I did not believe when I voted this afternoon that the amendment offered by the gentleman from North Carolina [Mr. WEBB] took care of labor and farmers' organizations, especially of farmers' organizations. I have not very many labor organizations in my own State, but we have a great many farmers' organizations, and I want to say this, that while that amendment might exempt the organization as such, it did not exempt the actions of the organization officials. Suppose the president of the farmers' union were to send down word to the organizations, or to the members of the union, to hold their cotton in the warehouse and not to sell it, to await a better price, is there any member of the Committee on the Judiciary who would say that that would not subject the member of the organization who sent down that word to prosecution under the Sherman antitrust law? If there is any Member, I would like for him to rise in his place and say so. The question was propounded here by Mr. GARNER this afternoon to the gentleman from Texas [Mr. HENRY], who is a genuine friend of the farmer, and Mr. HENRY did not answer the question. It was also submitted to the gentleman from Pennsylvania [Mr. GRAHAM], and he candidly admitted that it would subject these members of the farmers' union, the grange, and so forth, to criminal prosecutions under the Sherman antitrust law. Now, Mr. Chairman, I want to say this: These gentlemen come before us and say this amendment offered by Mr. WEBB is supposed to take care of the farmers' and labor organizations. If this amendment takes care of them, why are not you willing to go further and put in it that they shall not be subject to prosecution; that these organizations shall not be subject to the terms of the antitrust act?

If we want to do the thing, if you want to exempt these organizations why not put language in the bill that absolutely and plainly takes care of them, and not put language in there that would be subject to judicial construction. Now, I do not know what experience you gentlemen have had with Federal judges. I know, Mr. Chairman, that out in our State we have not very much regard for the opinion of a Federal judge on any question. Why, they have tied up our 2-cent fare rate, they have enjoined our taxation, they have attempted, Mr. Chairman, to enjoin statehood in Oklahoma in the face of an act of Congress.

Mr. HENRY. Will the gentleman yield for a moment?

Mr. THOMPSON of Oklahoma. Yes.

Mr. HENRY. The gentleman referred to my colleague asking me a question, and said that I did not reply to it. I did make a reply to it, and I want to add here that even if this exemption were not written into the law which we have written in the shape of the Webb amendment that the farmers of Oklahoma or of Texas could meet and agree to hold their cotton or their grain, and put it in a warehouse, and hold it there until they got ready to sell, and that would not be a violation of the terms of the Sherman antitrust law.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HENRY. I ask unanimous consent that the gentleman have five minutes longer.

Mr. CARLIN. Mr. Chairman, reserving the right to object, the gentleman now is discussing matters that have been disposed of in the committee before, and we are trying to get along with this bill. We have 23 sections to dispose of, and we have just reached section 8, and, while the discussion is extremely interesting, if it is going to take very much longer——

Mr. HENRY. It is not going to take more than two minutes longer.

Mr. CARLIN. I have no objection to the gentleman having two minutes.

The CHAIRMAN. Is there objection to the gentleman from Oklahoma proceeding for two minutes?

Mr. THOMPSON of Oklahoma. If I do not get some time, I will raise the point of no quorum if the gentleman wants to make objection.

Mr. CARLIN. That is the gentleman's privilege.

Mr. THOMPSON of Oklahoma. And I will exercise my privilege.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HENRY. I say, without this exemption the farmers of Texas could have met and agreed to put their cotton in the warehouse and keep it there until they got ready to sell, and it would not be a violation of the Sherman antitrust law. Now, this exemption makes assurance doubly sure, and they are exempted from the provisions of the antitrust law, both in State and interstate commerce, if they see proper to invoke the protection of it.

Mr. THOMPSON of Oklahoma. Does the gentleman mean to say to this House that if the farmers of Oklahoma were to put their cotton in a warehouse and hold it for a certain price they would not be guilty under this act?

Mr. HENRY. Even if this law were not passed now they could not be touched under the terms of the Sherman antitrust law.

Mr. THOMPSON of Oklahoma. Suppose the men who manufacture the cotton should put their manufactured goods in the warehouse to hold the manufactured goods for a certain price, would they be guilty under this act?

Mr. HENRY. If it entered into interstate commerce and becomes a part of interstate commerce, that is another proposition; but here is a purely local proposition, and it is not in violation of that statute. You can put every bale of cotton raised in Oklahoma or every bushel of corn or grain and hold it there until you get ready to sell, and that is not a violation of the Sherman antitrust law.

Mr. BARKLEY. I will say further this is exactly what was done in Kentucky with the tobacco raisers who pooled their tobacco——

Mr. THOMPSON of Oklahoma. And there was a fine imposed of $3,500——

Mr. BARKLEY. That is where they were charged with interfering with interstate tobacco by crossing the Ohio River.

The CHAIRMAN. The time of the gentleman has expired.

Mr. THOMPSON of Oklahoma. I had five minutes, I thought.

The CHAIRMAN. The gentleman had two minutes.

Mr. THOMPSON of Oklahoma. I thought it was five.

Mr. CARLIN. I have no objection to the gentleman having three minutes more.

Mr. THOMPSON of Oklahoma. I want to extend my remarks by publishing in the RECORD a letter I have here on the subject of rural credits.

The CHAIRMAN. Is there objection to the gentleman's request?

Mr. THOMPSON of Oklahoma. Mr. Chairman, I have a letter here on that subject, and a letter addressed to the Hon. William Jennings Bryan, Secretary of State, on that subject, and I want to put both of those letters in the RECORD. And I want to say at this time, Mr. Chairman, that unless we have rural credit legislation we have got to maintain a quorum pretty soon, and I shall make some points of no quorum.

The CHAIRMAN. The gentleman from Oklahoma [Mr. THOMPSON] asks unanimous consent to extend his remarks in the RECORD by the insertion of certain letters. Is there objection?

There was no objection.

Mr. BARTLETT. Mr. Chairman, this provision, section No. 8 and the subsequent section of this bill, stretch the power of Congress over interstate commerce very far. In fact, Mr. Chairman, I have very serious doubts myself whether they do not go beyond the limit of the power of Congress to regulate interstate commerce by undertaking to regulate the internal management of corporations created by the States.

So far as I am concerned, Mr. Chairman, on another occasion I saw fit to give expression to my views on this subject in a minority report which I signed, emanating from the Committee on Interstate and Foreign Commerce of the House in 1910, and also to say what I thought about that subject on the floor during the discussion of that bill. I think there is more power in Congress and more reason for exercising it in regulating the matter of directors or the matter of transportation companies than it has to exercise it in this bill. I realize, Mr. Chairman, that the Democratic Party in its Baltimore convention adopted this in its platform:

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

I am a pretty loyal Democrat, Mr. Chairman. I believe in following the declarations of party platforms, confiding in the wisdom of those who represent the party in the convention; and but for that declaration in the party platform I do not see how

I could bring myself to vote for the provisions of these sections 8 and 9, all of them. Nor, Mr. Chairman, have I yet brought myself to the conclusion that I can vote for them. I know, Mr. Chairman, it is not very fashionable to suggest that the Constitution stands in the way of legislation of any sort by Congress. But it would not be out of place, Mr. Chairman, to call attention of some—not many—of the adjudicated cases upon this subject, cases adjudicated by the Supreme Court of the United States.

I maintain, and the Supreme Court has decided, that the charters of the corporations granted by the States are their guide as to what they shall do in the internal management of those corporations. I do not believe it is a proper exercise of legislative authority by Congress under the commerce clause of the Constitution to say who shall or who shall not be directors of a corporation organized by a State. If we examine the law writers and the decisions of the courts that have passed upon those subjects we shall find that the regulation of the internal affairs of a corporation, what business it shall do, what the directors shall do, who they shall be, of whom the board of directors shall be composed, is an exercise of the police power of the States solely, and not a power authorized to be controlled by Congress.

Let us take the opposite view of it, Mr. Chairman, for a moment. Suppose Congress should undertake to say, in spite of State legislation, that there should be interlocking directorates; that there should be combinations of interstate railroads running from one State to another in spite of constitutional prohibitions.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARTLETT. Suppose, Mr. Chairman, that Congress should declare that railroads that were engaged in interstate commerce might have interlocking directorates, and the States should forbid it. Is it to be presumed that Congress could authorize a thing of that sort? Yet, if Congress can forbid it, Congress can grant it.

Now, let us see what the Supreme Court of the United States says upon that subject.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Iowa?

Mr. BARTLETT. I do.

Mr. GREEN of Iowa. Is the gentleman speaking now of the provisions of section 9 instead of section 8?

Mr. BARTLETT. I said at the beginning that I was speaking of the provisions of sections 8 and 9. I am fully aware that the Supreme Court has decided in the Northern Securities case that holding companies, such as the Northern Securities Co., when they undertake to combine, and thereby interfere with commerce and have a monopoly, come within the purview of the act of 1890 by a divided court of 5 to 4. But I will read from the case of the Louisville & Nashville Railroad Co. *v.* Kentucky (161 U. S., 702).

Mr. Chairman, I ask unanimous consent that I may have 10 minutes instead of 5. I want to put this in the RECORD.

Mr. CARLIN. Mr. Chairman, I shall not object to my friend.

Mr. BARTLETT. The chairman of the Committee on the Judiciary when he left told me I might have additional time.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. BARTLETT. This was a case where the Louisville & Nashville Railroad undertook to combine with another railroad and to purchase some of its stock and own it in contravention of the constitution of Kentucky, which said it should not be done. When attacked in the courts for doing it they set up that the statute of Kentucky was unconstitutional because it interfered with interstate commerce, both railroad companies being interstate railroads. In that case the court said:

> It was said in Sherlock *v.* Alling (93 U. S., 99, 103, 104) and quoted with approbation in Plumley *v.* Massachusetts (155 U. S., 461) that "in conferring upon Congress the regulation of commerce it was never intended to cut the States off from legislating on all subjects relating to the health, life, and safety of their citizens, though the legislation might indirectly affect the commerce of the country. Legislation, in a great variety of ways, may affect commerce and persons engaged in it without constituting a regulation of it within the meaning of the Constitution. * * * and it may be said, generally, that the legislation of a State not directed against commerce or any of its regulations, but relating to the rights, duties, and liabilities of citizens, and only indirectly and remotely affecting the operations of commerce, is of obligatory force upon citizens within its territorial jurisdiction, whether on land or water, or engaged in commerce, foreign or interstate, or in any other pursuit."
>
> It has never been supposed that the dominant power of Congress over interstate commerce took from the States the power of legislation with respect to the instruments of such commerce so far as the legislation was within its ordinary police powers. Nearly all the railways in the country have been constructed under State authority, and it can not be supposed that they intended to abandon their power over them as soon as they were finished. The power to construct them involves necessarily the power to impose such regulation upon their operation as a sound regard for the interests of the public may seem to render desirable. In the division of authority with respect to interstate railways Congress reserves to itself the superior right to control their commerce and forbid interference therewith, while to the States remains the power to create and to regulate the instruments of such commerce so far as necessary to the conservation of the public interests.
>
> If it be assumed that the States have no right to forbid the consolidation of competing lines, because the whole subject is within the control of Congress, it would necessarily follow that Congress would have the power to authorize such consolidation in defiance of State legislation—a proposition which only needs to be stated to demonstrate its unsoundness. As we have already said, the power of one railway corporation to purchase the stock and franchises of another must be conferred by express language to that effect in the charter, and hence, if the charter of the Louisville & Nashville Co. had been silent upon that point it will be conceded that it would have no power to make the proposed purchase in this case. As the power to purchase, then, is derivable from the State, the State may accompany it with such limitations as it may choose to impose. Its results, then, from the argument of the appellant that, if there be any interference with interstate commerce it is in imposing limitations upon the exercise of a right which did not previously exist, and hence if the State permits such purchase or consolidation it is bound to extend the authority to every possible case or expose itself to the charge of interfering with commerce. This proposition is obviously untenable.

So that if the Congress has the right to exercise this power of prohibiting interlocking directorates in corporations simply because they engage in interstate commerce, then Congress has the power to permit interlocking directorates; and if the power is in Congress, the power is exclusive in Congress, and the whole power to regulate can be taken away from the States. In my opinion that can not be done.

I have another case here to which I desire to call the attention of the House, in volume 204, United States, page 152. That was a case where the State of New York levied a tax upon the transfer of shares of stock sold in New York. The tax was resisted upon the ground that the stock was sold to some one outside of the State, and that the tax was an interference with interstate commerce. The court held:

> The protection of the commerce clause of the Federal Constitution is not available to defeat a State stamp-tax law on transactions wholly within a State, because they affect property without that State, or because one or both of the parties previously came from other States.

Those are two decisions which I have cited, and to which I desire to call the attention of the committee. If they are the law, if it be true that the State and only the State has the right to regulate who shall be directors and who shall not, and what a railroad or a corporation shall do in reference to purchasing or owning the property of its competitor, then the Congress has no power such as this bill undertakes to exercise. I do not think it has the power. I may be mistaken. I know that the steps have been long and the strides have been far in the direction of controlling everything under the commerce clause of the Constitution.

I recall a letter written by Mr. Jefferson to Judge Sloan in 1816, as I recall the year, when, criticizing and condemning the effort to concentrate all power in the Federal Government here at Washington, Mr. Jefferson said that under the commerce clause of the Constitution they would undertake not only to regulate what was real interstate commerce, but to bring under the control of Congress all manufacture and agriculture. If he could now revisit these scenes of his labors and see what has been done and what we are daily attempting to do he would see that the prophecy he made in 1816 had almost come to a dread realization.

So, Mr. Chairman, I find myself in this position of having very serious doubt as to the constitutionality of these sections and as to the power of Congress to enact them. I can not get away from that. It is no hobby. I have undertaken to study the question. I have given much thought to it on other occasions, as I have also upon this occasion, and I can not escape the conviction that Congress does not have the power, in regulating the instrumentalities of Congress, like railroads that pass from one State to another, to say how the internal affairs of such a corporation shall be managed.

To repeat what was said in the Kentucky case, would anyone presume for a moment that Congress would have the power to say that if the State law forbade it, that one competing railroad could absorb another, yet, in spite of said State law, should authorize such consolidation? Yet if Congress has the supreme and sole power and jurisdiction over the subject, it would have the right to permit it—as it does in this bill—permit traffic arrangements and permit railroad officers to confer together for

the purpose of making agreements. If the State law forbids corporations within its domain from making these arrangements, Congress having the power to direct and saying that they can make these arrangements, and that one railroad could absorb another, you can not escape the conclusion and conviction that if Congress has the exclusive power to forbid these things it has the power to permit them.

So, Mr. Chairman, I come back to the proposition that these provisions of this bill give me serious concern and serious doubt as to what my duty in the matter is. I realize that I am liable to err as to how the law will be construed. When I read some recent decisions of the Supreme Court of the United States it looks, Mr. Chairman, as if they were ready to go even further than Congress wants them to go. The Supreme Court may decide this to be constitutional. As far as I am concerned I think they endanger the good provisions of the bill, and that in the platform, as it was written in Baltimore, the demands placed on the Democratic Members were made without considering whether they could be sustained in the courts or not. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, orders have been issued from the White House that the trust problem should be taken up at this session and some new law passed. These instructions have been issued in accordance with a theory, of which the President seems to be the chief exponent, that to cure any evil that exists it is only necessary to put a new law upon the statute books, and it matters little in what form the law is enacted. One part of this theory is that legislation upon any subject, no matter how complicated, can easily be drafted, and when once formulated should be accepted by Congress without any changes or amendments. At this particular time I doubt whether the country at large is as ready to accept this theory as it has been. It is getting some experience with half-baked legislation, and now in the bill before us we have some measures as to which the cookery has not even gone that far. We had already on our statute books undoubtedly the best law on the subject of trusts and combinations in restraint of trade possessed by any nation. It is a model of brevity, clearness, and of comprehensiveness. It has been tried again and again and never found wanting except when its failure was caused by incompetency, neglect, or something worse. It will not, of course, reach acts done in intrastate business. These can only be reached by the States themselves, although the framers of this bill seem to have overlooked this obvious rule.

Mr. Chairman, the bill is drawn on wrong lines. It undertakes to deal with specific acts, regardless of whether they are done in restraint of trade or for the purpose of creating a monopoly. In framing the bill it seems to have been forgotten that an act may be perfectly innocent and an aid to competition when done by a small dealer for the purpose of extending his trade, while the same act may be highly injurious when done by a large concern as a part of a far-reaching scheme for the purpose of creating a monopoly. It has been said by a member of the committee introducing the bill that the Sherman law merely reached acts done in restraint of trade, while this bill was intended to promote competition. Such a statement shows an utter misconception of the Sherman law. If restraint of trade be forbidden—and everyone concedes it is forbidden by the Sherman law—competition is free. We can not compel different concerns to compete, but we can compel them to give a free and fair field to competition with each other and forbid their combining with each other in restraint of trade and thus preventing competition. This is just what the Sherman law does. Restraint of trade, Mr. Chairman, is the exact converse of competition. Forbid restraint of trade and the door is thrown wide open for competition. The Sherman law provides for competition and at the same time it does not fetter business, because sales and contracts alike are left undisturbed where no restraint of trade is imposed.

Another great defect in the bill is that it undertakes to be specific, but finding that the attempt resulted in expressions either too broad or too narrow, it has been sought to remedy the difficulty by the use of indefinite terms. Who can even guess at the meaning of certain expressions used in the bill? For example, "wrongfully injure a competitor"; "arbitrarily refuse to sell"; "substantially lessen competition"; "legitimate purposes," and so forth. The committee itself seemed to be so uncertain of the effect of the bill that it not only inserted numerous provisos, but it was found necessary to follow these provisos with other provisos to the effect that no part of the bill should be construed to modify existing laws.

The result, if the bill becomes a law, will be to create doubt and uncertainty. The business man embarking upon a voyage of trade will not know which way to steer his vessel. The construction of the act will necessarily be involved in a fog of doubt, and until its uncertainties are settled the most honest may be in fear and the active will hesitate.

The bill will neither do the harm many expect nor the good which its authors anticipate. It is so crudely drawn that many of its provisions are meaningless, and it is so far from having any "teeth" that a corporation lawyer who could not drive a six-horse team and band wagon through nearly all of its provisions ought to be discharged at once. In some respects it actually weakens the Sherman law by providing a method of evading it.

Section 2 of the bill is a good example of the method which has been used in preparing the bill. This section forbids discrimination in prices in different localities, except such as is caused by making due allowance for transportation charges, and so forth. Yet the only way for a small concern to get a foothold in a new locality is to sell at first at a reduced price; otherwise it will be unable to get the business. In so doing competition is stimulated and a monopoly on the part of those who have been in control of that market can be prevented. But this section seems to place such transactions under the ban of the law. The large industries can easily establish branch houses in any desired locality, and thus evade the law entirely, although its purpose in lowering prices may be part of a plan to build up a monopoly and drive its competitors out of that locality. Thus the small concern may be punished, although its acts are not only innocent but in reality beneficial, while the big monopoly goes free. The effect of this section, if it has any effect, will not be to promote competition, but to destroy it, and its provisos legalize acts which are forbidden under the Sherman law when done as a part of a scheme to restrain trade.

Section 3 is so indefinite that no one can tell what it means. It is intended to compel those operating coal mines to sell to the public. It will have no such effect. No two persons have agreed as to what is the meaning of the word "arbitrarily," as used therein. If it means what the authors of the bill state, namely, "without any reason whatever," then the section has not the slightest effect. If it means what some others claim, it will embarrass the small dealer without in any way reaching the large dealer who has branch selling houses in each State. In any event, its meaning is so uncertain as to make its enforcement impracticable and its enactment useless, if not dangerous.

Section 4 strikes at the small dealer, who can not maintain an agency of his own in another State while the large dealer can maintain an agency therein, and by making his sales through such agency cause all such sales to be intrastate business and entirely escape the provisions of the section. Like the two preceeding sections it holds a club over the head of the small dealer and leaves open a wide door through which the big interests may escape.

Section 5 is included in the Sherman law as it now stands.

The first paragraph of section 7 does not include cooperative agricultural associations, and all amendments for that purpose were rejected. In its original form it contained nothing not already provided by law.

The second paragraph of section 7 is one of the most dangerous in the whole bill. It gives the railroads the privilege of making agreements with reference to rates and services which they shall perform regardless of whether they are competing lines or not. The railways have been trying for years to obtain this privilege, and heretofore Congress has always denied it. It is true that the bill excepts agreements to maintain rates, but this can easily be evaded as it does not forbid agreements to establish or fix rates. The provision that such agreements shall be approved by the Interstate Commerce Commission does not help the situation. Inevitably competition is destroyed when such agreements are made, rates will be raised, and service heretofore rendered will be denied. The railways can agree upon slow trains, upon onerous conditions for shippers, and to refuse privileges heretofore granted. Whether intended or not this paragraph conceals a "joker" of the most dangerous kind.

Section 8 is a sham, pure and simple. It pretends to be that which it is not and which it can not be. It pretends to forbid the consolidation of competing railroad companies by means of holding companies. As an actual fact it facilitates such consolidation. It pretends to strengthen the Sherman law while it actually weakens it. It pretends to forbid the use of holding companies for the purposes of consolidating companies engaged in commerce. It actually provides that such holding companies may be organized instead of commanding their dissolution.

Mr. Chairman, it was held in the Northern Securities Co. case—and since that time no lawyer has pretended to doubt

the principle—that competing lines of railways could not be joined by holding companies; that holding companies could not be organized that had even the potential power of preventing competition without violating the Sherman law. But under the provisions of this section, in order to establish a violation of the antitrust law we must go further and show that the competition has actually been lessened and prevented or a monopoly obtained. Nothing of that kind was required prior to the enactment of this section if it should become a law.

Mr. VOLSTEAD. Will the gentleman permit me to call his attention to the third paragraph of this section, that does not even condemn a monopoly?

Mr. GREEN of Iowa. I was about to allude to that. In the third paragraph of the section is found a series of exemptions which runs through the section until almost everything imaginable has been exempted. I read from one of the provisos:

> The section shall not apply to corporations purchasing stock for investment, or using the same by voting or otherwise to bring about a lessening of competition, nor shall it prevent a corporation engaged in commerce from causing the formation of subsidiary corporations, or from owning or holding all of part of the stock of such subsidiary corporations.

Under this provision, no matter how complete the monopoly, unless some action was taken by voting it would not fall under the ban of the law, while under the present law it is so well settled that a combination of competing lines is illegal that it is not necessary for the Department of Justice to bring a suit against railway companies which have been consolidated through a holding company or by the purchase of stock, whether one or the other. The simple statement of the Department of Justice that action will be brought to dissolve the combination has been sufficient to cause the railway companies attempting consolidation to yield immediately and consent to a dissolution.

Under this section (8) holding companies may be organized which can obtain the control of two competing lines, and then under the preceding section they may enter into any agreement that they choose to fix rates, to determine the service which they shall perform, and, in short, to absolutely eliminate competition.

This is what the committee has brought forward as something that will bring relief to the people. Why, Mr. Chairman, it is just what those in control of the railways have been seeking for. They now can say:

> This is the way I long have sought,
> And mourned because I found it not.

[Laughter.]

The majority of the Judiciary Committee have brought in what the railroads have been hounding the Interstate Commerce Commission for and demanding of Congress for lo these many years, and it has been refused them until this time. Now they have all the powers of consolidation they ever really wished and asked for in the two sections, and may consolidate under one section and agree on rates under the other. [Applause.]

Mr. Chairman, this section should be stricken out. It serves no purpose. There never was any demand or reason for it, nor have gentlemen undertaken to give any reason why it should be adopted. The relief afforded by the Sherman law was ample. As the gentleman from Minnesota [Mr. VOLSTEAD] has stated, this section is likely to furnish the means of evading the most valuable portion of the Sherman law which we now have on our statute books.

Complaints against this and the preceding section are answered by gentlemen on the other side by calling attention to provisions to the effect that these sections shall not be construed to permit acts illegal under the present law. But if these provisos are relied upon, why keep these sections in the bill? Why should we enact a law which we so much fear partially repeals the Sherman Act, that we are obliged to follow it by a proviso that it shall not be so construed? Could anything be more useless or confusing?

Section 12 is the so-called "personal-guilt section." It is claimed by the authors that it will attribute the guilt of the corporation to its officers. As a matter of fact, it will do nothing of the kind. As originally drawn, while I do not think that its authors intended that it should conceal a "joker," it was in fact a joke. In order to convict any individual of a violation of the antitrust laws it required a conviction first of the corporation and then of the individual—in other words, two convictions to show one crime. As amended, it is questionable whether it is any better. It may not now require two trials, but it certainly will require more evidence than was necessary under the Sherman law, and unless further amended this section will weaken this important statute instead of strengthening it.

There are some of the provisions of the bill that meet with my approval. The section extending the statute of limitations while a suit is pending against a trust is an excellent one and ought to have been enacted long ago. The proviso authorizing an individual as well as the Government to commence an equity action to restrain a threatened injury by some monopoly is also a good one, although I doubt whether as much good will be received therefrom as was expected. Section 6, as amended in the Committee of the Whole House, is excellent in its purpose, although there may be some doubt about its constitutionality, and I have no fault to find with its provisions with reference to labor organizations, which, in my opinion, merely state the law according to the best authorities.

The bill, taken as a whole, is a political measure, framed for purposes which are political, rather than those which would be for the benefit of the country at large. It is evidently intended to hold it up before the country as an example of legislative activity on the part of the Democratic administration, which is determined to do something, "right or wrong." It demonstrates the inability of a Democratic Congress to frame constructive laws under which business can thrive; the laborer receive his just reward; competition be free; and predatory interests restrained. No great constructive measure has ever yet been made a law through that party which did not in a few months after enactment become so unpopular that the people could not repeal it soon enough. The form of this bill does not indicate any improvement in the capacity of that party for government.

The antitrust provisions of the bill are simply buncombe, designed to give the country the impression that the Democratic Party was redeeming its party pledges, and by the inclusion of some good provisions, to place the Republican Members of this House in a false light. If I should vote against the bill, I realize that it would be claimed that I was voting against measures which would tend to suppress the trusts and also against policies in regard to labor organizations which I have always favored. I do not propose to be put in such a position. For years I have worked to make the laws against trusts more efficient, and I have always been in favor of giving labor its just dues, although I have not been willing to select any particular class and grant it a special privilege. I am not in any way responsible for any of the defective provisions in this bill. I have repeatedly spoken in opposition to them on the floor of this House. I have offered amendments myself and have supported those offered by others which would have eliminated its evil features and made it more efficient in controlling trusts without in any way interfering with legitimate business. But amendment after amendment has been voted down regardless of their merit. It has become so plain, Mr. Chairman, that the Democratic majority is not intending to prevent acts which restrain trade or create monopolies that it is useless to offer amendments further. Their whole purpose is to make a showing regardless of whether anything is accomplished in the way of curbing monopoly. If there was any prospect that this bill would become a law in its present form, I would not give it my vote; but no one expects anything of the kind. The bill is introduced for appearance, well knowing that it never will become a law as it now stands, and in the expectation that it will not even be considered by the Senate before the congressional elections.

The hope is that its high-sounding phrases, which can be understood by no one, will deceive the people and ensnare their opponents. I will not walk into such a trap. As I have stated, I have long been working among the ranks of those who are opposed to trusts and monopolies. Years ago I was selected by the governor of Iowa as a delegate to and attended the convention held at Chicago to consider measures against trusts—the first ever held in this country for that purpose—and I have always been in favor of giving the laboring man the right to organize. On prior occasions when measures giving the workingmen their rights have been before the House I have supported them by my voice and by my vote. I decline now to be put in the attitude of opposing the principles which I have before advocated by reason of my vote upon a bill the antitrust provisions of which are a mere pretense and a sham.

The attempt which has been made in this bill is entirely in the wrong direction. The Sherman law, as I believe, is amply sufficient to reach all restraint of trade and monopoly exercised or attempted in interstate commerce. It is true that evils now exist, but they exist partly through lack of enforcement of the Sherman law and partly because the wrongful acts are committed in intrastate commerce—that is, wholly within the boundaries of a single State—and are not within the jurisdiction of Congress. Many, if not most, of the evils at which this bill

is aimed can only be reached through State laws. I regret to say that the laws of my own State are not what they should be on this subject, and we need therein a broad and comprehensive measure like the Sherman Act. We need, especially on the part of our national authorities, a fearless and thorough enforcement of the Federal law which, it is unnecessary to say, we are not receiving. We need also a Federal law requiring all concerns doing an interstate business to come under its jurisdiction, and a provision that as a penalty for a failure to observe such antitrust laws the privilege of transacting such business will be withdrawn. Then, and then only, in my judgment, will the great combinations which now are a menace to our national existence be properly curbed and restrained, and to this end I shall direct my best efforts.

Mr. MANN. Mr. Chairman, I would like to get the attention of the gentleman in charge of the bill if I might. On page 25 this language is inserted, this being the section in regard to holding of stock by one corporation in another corporation:

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition.

The first provision is:

This section shall not apply to corporations purchasing such stock solely for investment.

Of course, that includes any stock that is purchased for investment, and all stock is purchased for investment when it is purchased at all. Then there is the exception—

And not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition.

That would not apply to voting for the election of officers, would it?

Mr. CARLIN. Mr. Chairman, I do not understand. Is the gentleman consuming five minutes under the rule, or is he trying to provoke debate?

Mr. MANN. I am trying to get some information which seems difficult to obtain.

Mr. CARLIN. Is the gentleman speaking in his own time?

Mr. MANN. I am speaking in my own time, I believe, under the five-minute rule.

Mr. CARLIN. That is what I wanted to get at. What is the question?

Mr. MANN. What does this exception mean? Here is a provision which says that this section shall not apply to corporations purchasing stock solely for investment, with an exception, and the exception is—

And not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition.

That would not prevent voting the stock they purchase.

Mr. CARLIN. I think not, unless they were voting it with that object in view.

Mr. MANN. How would it be possible to show that they were voting the stock for the purpose of bringing about the lessening of competition? They vote stock for officers, and they may vote stock as to the issuance of other stock or bonds, but they do not vote stock as to the policy of the corporation.

Mr. CARLIN. If they voted that stock for sale to a holding company, the object of which would be combination with a competing company, that would be one way in which they would bring themselves within the provisions of this statute.

Mr. MANN. But there is another provision in reference to holding companies.

Mr. CARLIN. Yes; but this is the holding company provision that we are discussing now. The gentleman is discussing the holding company provision of the bill.

Mr. MANN. Oh, no; I am discussing the question of where one company buys the stock of another. You say it shall not apply where they buy stock for investment, unless they vote it to lessen competition.

Mr. CARLIN. That is right.

Mr. MANN. They do not vote to lessen competition in any case.

Mr. CARLIN. They could vote stock in violation of section 9, which follows, in the election of interlocking directorates, and by reason of that fact competition might be lessened—any number of various specific acts which go to bring about the lessening of competition might be done through stock voting or otherwise.

Mr. MANN. Under this section one corporation can buy and own the stock of another, and it can vote that stock unless it be proven that it voted for the purpose of substantially lessening competition.

Mr. CARLIN. That is correct.

Mr. MANN. I do not think it means anything.

[Mr. FARR addressed the committee. See Appendix.]

Mr. CARLIN. Mr. Chairman, as all time has expired, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

Mr. VOLSTEAD. Mr. Chairman, I would like to add a few words.

Mr. CARLIN. How much time does the gentleman expect to use?

Mr. VOLSTEAD. Five minutes.

Mr. CARLIN. Very well.

Mr. VOLSTEAD. Mr. Chairman, in connection with the colloquy that has just taken place between the gentleman from Illinois and the gentleman from Virginia, I desire to call to the attention of this House the Northern Securities Co. case. That case originated in my country, and I think I know a little about it. That company was formed for the purpose of holding stock purely as an investment. Upon the trial of that action the company showed that it had never given any direction whatever to the officers of the Northern Pacific or the Great Northern Railroad, the two railroad companies combined in the Northern Securities Co.

The company itself had no power whatever to run a railroad. Here was a case on all fours with the one you provide for in paragraph 3 of this section, but did the court take the view that this consolidation did not restrain trade? Not at all. As I said before, the court saw just as clearly as any man in his senses could see that such an organization necessarily destroyed competition, because when the Northern Securities Co. became the owner of the two railroads competition would necessarily cease. It would not be necessary to do anything to direct the officers of the two railroads not to compete. They knew that every dollar expended for the purpose of competition as between those two was money taken away from the Northern Securities Co., and as a consequence taken from the company for which they were working. Now, this bill clearly legalizes just that sort of an arrangement, and you know that practically every combination in restraint of trade that has been formed in this country in the last 15 or 20 years has been formed in this same fashion, and still you legalize that sort of a combination. It seems to me so clear that I must confess I can not understand how this committee expects to defend it. It can not be defended. I think you owe to the country a frank statement as to the purpose of this section. If it is for the purpose of wiping out the Sherman antitrust law, let us know it, and we will go before the country on that issue. If, on the other hand, you pretend that it does not, it seems to me we are entitled to an explanation before you write it into the statute.

Mr. CARLIN. Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota.

The question was taken, and the amendment was rejected.

Mr. VAUGHAN. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add, after the period in line 2, page 27, the following paragraph:

"Nor shall anything in the antitrust laws be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business, or from acquiring local exchanges from competitors for local business, when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated and competition in the transmission of interstate toll messages is not interrupted nor interfered with: *Provided*, That where such sale or purchase will affect commerce it shall not be permitted until the terms thereof have been submitted to and approved by the Interstate Commerce Commission."

Mr. CARLIN. Mr. Chairman, I wish to reach an agreement as to how long we shall have debate on this and all other amendments. Are there any other amendments desired to be offered to this section?

Mr. BROWN of New York. I have an amendment to offer.

Mr. CARLIN. Mr. Chairman, I ask unanimous consent that all debate upon this section and all amendments thereto be concluded in 20 minutes, 10 minutes to be controlled by myself and 10 minutes by the gentleman from Texas.

Mr. MANN. There are three gentlemen who want five minutes apiece.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that all debate upon the pending section and all amendments thereto be closed in 20 minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. VAUGHAN. Mr. Chairman, the whole theory of all antitrust legislation is that competition for patronage is beneficial to the public, but there is at least one business in which it is not beneficial but is injurious to the public. The existence of two good, well-patronized telephone systems in any community makes it necessary for every business man in the community to

patronize both systems. I believe that every local telephone exchange should be owned by the municipality in which it is located or by the Government, and that all long-distance systems should be owned and operated by the Government. But whether or not we agree about that we certainly should not disagree upon the proposition that wherever there is real competition between any two local telephone exchanges it is a burden and not a benefit to the public in that locality.

The amendment I propose will simply authorize the owners of one exchange to purchase the exchange of another when not forbidden by the law of the State or locality, and when competition in the transmission of interstate-toll messages is not interfered with nor interrupted.

I happen to live in a town where we have two systems, one exchange is located in Texas and the other in Arkansas, and I wish to make it certain that my people will not always be compelled to patronize and maintain two telephone systems. I dare say there are other towns in the United States that are similarly located, and that feel the same burden that my town does.

Mr. WEBB. Mr. Chairman, will the gentleman yield to me for a question?

The CHAIRMAN. Does the gentleman from Texas yield to the gentleman from North Carolina?

Mr. VAUGHAN. I yield.

Mr. WEBB. Will the coalition of these two exchanges substantially lessen competition?

Mr. VAUGHAN. It will lessen competition for the patronage of the people. The people in the town will not be compelled to patronize two telephone systems.

Mr. WEBB. How about the interstate rates?

Mr. VAUGHAN. The amendment I propose provides that the purchase or acquisition shall be permitted only when competition for the transmission of interstate toll messages is not interfered with, and whenever commerce would be affected thereby, it is not permitted until it has been submitted to and approved by the Interstate Commerce Commission.

Mr. WEBB. Why do you say "where messages are not interfered with or interrupted"? Why not say "competition in the transmission of interstate toll messages is not substantially lessened"? That is the language that is used in other provisions.

Mr. VAUGHAN. If the committee will accept my amendment, I will agree to that change in the language.

Mr. WEBB. If it does not substantially lessen competition, it does not apply to the interstate telephone exchanges at all. That is already in the bill.

Mr. VAUGHAN. Why not make it plain that a transaction which could not injuriously affect but would benefit is not forbidden by this bill, which may be construed to forbid what the committee must admit can not be any violation of the spirit or the purpose of antitrust legislation?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. ADAMSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by printing the report on the next bill for consideration under the rule.

The CHAIRMAN. The gentleman from Georgia [Mr. ADAMSON] asks unanimous consent to extend his remarks in the RECORD by printing the report on the next bill to be considered under the rule. Is there objection?

There was no objection.

Following is the report referred to:

[House Report No. 681, Sixty-third Congress, second session.]

PROPOSED AMENDMENTS TO SECTION 20 OF THE ACT TO REGULATE COMMERCE.

Mr. ADAMSON, from the Committee on Interstate and Foreign Commerce, submitted the following report to accompany H. R. 16586:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 16586) to amend section 20 of an act to regulate commerce, having considered the same, report thereon with a recommendation that it pass.

Since reporting H. R. 16133 to the House your committee agreed upon some additional amendments and concluded to incorporate them, as well as the committee amendments already agreed upon and reported together with the original text in a new bill, which was accordingly introduced by the author of H. R. 16133 and, by subsequent order of the committee, is hereby reported to the House with a recommendation that it be considered by the House in lieu of H. R. 16133.

The bill herewith reported proposes certain amendments to section 20 of the act to regulate commerce, which has for many years authorized the Interstate Commerce Commission to acquire all necessary information touching the condition of carriers as to physical property, their stocks and bonds, all of their accounts, reports, and details and methods of doing business. The commission found the act in some respects defective as to the authority conferred, and the amendments proposed in this bill in the first 11 pages are designed to supply the needed authority. The authority conferred by the terms of section 20 was not broad enough to cover the subjects, knowledge of which it was necessary to acquire, inasmuch as it did not authorize the examination of books, papers, contracts, and correspondence of construction companies and other persons, natural and artificial, with which the carriers might have dealings of a character injurious to the transaction of interstate commerce. Neither did this provision confer authority to compel the production and furnishing of all information, books, accounts, correspondence, documents, and other papers. Neither did the terms of the section provide for the public and the stock and bond holders themselves the necessary publicity deemed so essential to the proper conduct of all public and quasi public business. It is thought by the commission and by your committee that the amendments proposed to the text, all of which amendments are indicated by being included in brackets and appear on the first 11 pages of the bill, are not only all necessary, but also will go far to supply defects in existing law.

The amendments offered in the first 11 pages are in pursuance of the recommendations of the celebrated stock and bond commission headed by Dr. Hadley, which thoroughly studied the entire question and made recommendations in line with the amendments hereinbefore referred to. Many witnesses before your committee thought that these amendments if made would constitute the only legislation necessary in the way of regulating the issuance of stocks and bonds. Some members of your committee concurred in that opinion, and all conceded that such amendments were necessary whether additional legislation were enacted on the subject of stocks and bonds or not. However, on mature deliberation and full hearing your committee concluded that there was a very general belief throughout the country that something should be done by the Federal Government in the nature of constituting a veto power in the interest of stability and efficiency of the carriers themselves to prevent them from impairing their financial strength and consequently injuring or destroying their capacity to perform their function to the public as common carriers. There is no doubt of the power of Congress to authorize the exercise of such a veto power if necessary to protect the carriers against the cupidity or incompetency of their own directorates or the avarice and exploitation of speculators who would use their power to wreck the carriers in order to realize sudden and large gains. There is a popular belief that for that very purpose of protecting the carriers in their stability and financial ability to discharge their duties to the public it is necessary to authorize the Interstate Commerce Commission to prevent the assumption by the carriers of obligations of any character which would weaken their capacity as common carriers or tend in any way to impair their ability to afford proper facilities and service to the public.

As section 20 of the act to regulate commerce had already authorized the commission to secure information of stocks and bonds and financial condition of the carriers, it was thought proper to perfect this provision to carry out the purposes intended, and it appeared peculiarly appropriate to incorporate by amendment in the same section the veto power upon the overissue of stocks and bonds because the two provisions are entirely cognate and germane one to the other. With the provisions beginning at the bottom of page 11 and occupying page 12, authorizing the commission to pass upon every proposed issue of stock and bonds, section 20, as amended in the preceding 11 pages, becomes more valuable than ever, because it will enable the commission through its regulatory instrumentalities to keep itself constantly supplied with information as to the actual condition of all carriers, and thus be enabled to meet and checkmate any improper effort that may be made to secure approval of an issue of stock or bonds. So that if the provisions conferring authority for such investigation and veto power are adopted, it will be only the more valuable by reason of the context in the preceding 11 pages, and if those provisions following the first 11 pages should not be adopted, then section 20 as amended in the first 11 pages of the bill would be sufficient to afford great relief in themselves. It will be noted that your committee has provided against any possible friction or conflict of jurisdiction between the Federal commission and the State authorities by requiring that notice of every application for approval of stock and bond issues shall be given to the regulatory authority of the State concerned, so that such authority may appear and be heard on the proposition. There is no doubt in our mind that that provision will rapidly lead up to a satisfactory working of the law and to absolute harmony and agreement between the two authorities.

The provision prohibiting the overissuance of stocks and bonds may be enforced by either one of two provisions offered in the bill. One is by injunction against acts declared to be unlawful and the other is by criminal prosecution for their violation.

Your committee has seen proper to provide and report another provision in the bill prohibiting common or interlocking directorates and management. When we learned that the Judiciary Committee was not undertaking to deal with the directorates of railroad companies we then heeded what appears to be a public and almost universal demand to prohibit interlocking directorates of carriers. Whether the necessity for this provision is so great as represented or not, and whether the anticipated benefits are exaggerated or not, there is a general impression that most of the wreck and ruin of railroads and consequent damage to public service and the public interest has been due to the machinations of men who managed different corporations, and by the policies adopted for the different corporations constituting a system or about to be consolidated into a system wrought ruin to some or all of the carriers involved. It has been represented to us that that practice has ceased, that railroad men are now no longer dishonest or incompetent, and that it is a matter of convenience for the same men to handle different enterprises without having to consult so many different people; but our observation is that there are good men enough in the world to fill every responsible position and then not have enough positions to go around, and we observe, in answer to the suggestion, that if the practice has ceased the provision in the law will not hurt anybody, for no man will be punished unless he is guilty. If any rash man should decide in the future to break out and imitate some of the disastrous escapades of the past, the law would be here to give him justice for his misdeeds. It has further been urged that in the case of large systems, formed by the consolidation of many smaller corporations, it is not necessary to have different directors for all the minor corporations. We answer that it is not necessary to have these consolidations; and the most vicious thing about all combinations in transportation and all other kinds of business is that, while they multiply the benefits of the few men retained, they dispense with the services of so many men both competent to fill the position and entitled to the fair emoluments thereof. We have thought it liberal enough to provide for relief in extreme cases through the approval of the Interstate Commerce Commission.

The date is postponed two years, and if any case exists where it is necessary to the interests of the public or the preservation of the property and the maintanence of facilities of transportation that any man should be a director or officer in more than one corporation, your committee believes that the public and the carriers can trust the Interstate Commerce Commission to pass on the question. This provision is germane and cognate to the preceding provisions of the bill, for the reason that the officers and directors of a carrier initiate all actions

issuing stock and bonds, which form the subject of previous provisions of the bill.

The further complaint that the penalties prescribed are drastic is, in our opinion, not well taken. Punishments which fine a corporation are nugatory. The fines are paid out of the treasury of the corporation; no man suffers in the flesh, as he feels no punishment as a violator of the law; and the capacity of the corporation is weakened to the amount of money taken out of its treasury. That is a vicious system, as it is liable to make the public suffer through the infliction of inferior service and allows the culprits to go free instead of punishing them in person and takes much-needed money from the corporate treasury. There is but one way to make malefactors fear the law, and that is to inflict personal punishment, and the severity of that punishment should be proportionate to the crime committed. The man who will unblushingly take advantage of his power afforded by his position in the financial world to wreck the facilities and ability of a carrier to discharge its duties to the public besides buncoing innocent investors out of hundreds of millions of dollars and embarrassing other innocent investors by unloading upon them worthless stocks and bonds is worth of the most severe human punishment, and for that reason your committee has left the punishment of such violators to the discretion of the court.

Mr. CARLIN. Mr. Chairman, I yield two minutes to the gentleman from New Hampshire [Mr. STEVENS].

The CHAIRMAN. The gentleman from New Hampshire [Mr. STEVENS] is recognized for two minutes.

[Mr. STEVENS of New Hampshire addressed the committee. See Appendix.]

Mr. CARLIN. I yield three minutes to the gentleman from New York [Mr. BROWN].

Mr. BROWN of New York. Mr. Chairman, I offer the following amendment:

The CHAIRMAN. There is an amendment pending.

Mr. VAUGHAN. I yield five minutes to the gentleman from Texas [Mr. HENRY].

Mr. CARLIN. How much time did the gentleman from Texas use?

Mr. VAUGHAN. Five minutes.

[Mr. HENRY addressed the committee. See Appendix.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. VAUGHAN].

Mr. CARLIN. I thought I would allow the gentleman from New York [Mr. BROWN] to offer his amendment.

The CHAIRMAN. The amendment of the gentleman from New York [Mr. BROWN] will not be in order until this amendment is disposed of.

Mr. CARLIN. Then I will use a part of my time now and use a part of it later.

Mr. Chairman, this amendment is the most remarkable one that has been offered during the consideration of this bill. While it was stated that it is a simple little amendment seemingly, allowing States to regulate their own telephone exchanges, the fact is that this amendment exempts the American Bell Telephone Co. from a decree of the court rendered within the last few months in a dissolution proceeding on behalf of the United States Government.

That company combined, as they admitted, in State after State, telephone company after telephone company until they had monopolized the telephone business of the United States, and when suit was threatened for dissolution they consented to the decree, and now we have an amendment which will eliminate that decree.

Mr. FLOYD of Arkansas. They bought out all the telephone exchanges in my part of the country, and as soon as they had done that the first thing they did was to raise the price.

Mr. BARTLETT. That is the usual course.

Mr. CARLIN. This amendment says:

Nor shall anything in the antitrust laws be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business, or from acquiring local exchanges from competitors for local business, when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated.

And by the system of purchase and sale they have been able to form a great combination which the Government has just dissolved. It seems to me it needs but to mention it to show that the committee can not consent to accept this amendment, and that it has no place in this bill.

Mr. WINGO. Will the gentleman allow a question?

Mr. CARLIN. Certainly.

Mr. WINGO. Let us use a concrete illustration. Suppose in the town of Horatio, Ark., the Southwestern Telephone Co. own not only the long-distance line but the local exchange. Suppose in the town of De Queen, Ark., 9 miles north, there is a company that owns both the local and the long-distance lines. The long-distance line runs into Oklahoma, the State line being only 8 miles away. The line also runs out over three or four counties having a rural system. Suppose that the Southwestern Telephone Co., at Horatio, should sell its local exchange to the man who owned the De Queen exchange and the country exchanges. Do you mean to say that that would be inimical to the public good? Do not you think that that ought to be permitted?

Mr. CARLIN. I am not sure that I understand the gentleman's question, but what I mean is that the combination of a number of competing telephone exchanges engaged in interstate business so that it is controlled by one corporation is a combination in restraint of trade.

Mr. WINGO. I agree with the gentleman.

Mr. CARLIN. And this is what this amendment permits.

Mr. WINGO. Oh, no. If I thought that, I would not advocate it. Does not the amendment say that one competitor may sell its local exchange to another competitor so long as it does not violate the State law and does not restrain interstate commerce?

Mr. HENRY. Yes.

Mr. CARLIN. Oh, the gentleman from Texas is mistaken. The amendment reads:

Nor shall anything in the antitrust laws be construed to forbid persons operating local telephone exchanges engaged in commerce from selling their local exchanges to competitors for local business or from acquiring local exchanges from competitors for local business when such sale or acquisition is not forbidden by any law of the State or locality where the exchange is situated and competition in the transmission of interstate toll messages is not interrupted or interfered with.

Mr. WINGO. Is not that what I said?

Mr. CARLIN. If the exchanges are within the State, we have no control over it.

Mr. WINGO. I call attention to this: Unfortunately for the situation, the gentleman from Texas—from Texarkana—has a concrete proposition. In my district there is a railroad that wiggles in and out across the State line. I have given you a concrete illustration of a sale which took place less than a week ago, and I know it is for the public good and does not create a monopoly, but tends to the betterment in the service.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken; and on a division (demanded by Mr. VAUGHAN) there were—ayes 11, noes 22.

So the amendment was lost.

Mr. BROWN of New York. Mr. Chairman, I offer the follow-amendment.

The Clerk read as follows:

Page 25, line 19, after the word "investment," add the words "or for investment and operation."

Mr. BROWN of New York. Mr. Chairman, I offer this amendment for the purpose of clarification only, because I do not know what the result of this paragraph is going to be. At the present time there is $5,500,000,000 invested in the securities of holding companies who operate public-utility companies subject to State regulation by the public-utility commissions in the various States. If these holding companies under State regulation do not bring about, or attempt to bring about, as the language of the bill reads, a substantial lessening of competition, I assume that this committee has no desire to interfere with the extension of their lawful business. But in the way the bill is drawn, Mr. Chairman, all future operations by holding companies may be unlawful for three reasons.

In the first place, in the district of Michigan two Federal judges recently held that for a corporation to sell its securities in more than one State constituted interstate commerce. Again in the State of Texas it is held that ownership of a gas-producing company and an electric-light company in the same location, no matter how much they may be regulated as to price of output and quality of service, is ownership of technically competing companies. Again it might be well held that the distribution of supplies from the parent holding company to the various plants in the various States would be interstate commerce. Therefore, in order to clarify these matters, I trust that the committee will consent to the adoption of this amendment in order that public-utility holding companies may continue their lawful business under the operation not only of the present law, but also under the provisions of this very able bill.

Mr. FLOYD of Arkansas. Mr. Chairman, we oppose the amendment offered by the gentleman from New York. We think that we have made all exceptions in this provision of the bill that ought to be made. We have made so many exceptions that some of our friends on the opposite side claim that the provisions of this section amount to nothing. We think we have already placed and incorporated in the section proper limitations; and this amendment is as objectionable as the one voted down a few moments ago, and more so, for the reason that it is general, while that undertook to exempt a specific thing. This excepts broadly these investment companies, and we object to it.

Mr. WEBB. Mr. Chairman, I want to say that so far as the $5,000,000,000 are invested in public utility corporations, if they are legal now, they will continue to be legal notwithstanding this act, because we specifically exempt those which are not illegal at present. If they are not legal under the present law, we certainly would not want to be put in the attitude of legalizing them in this act, and therefore I think it would be a very dangerous provision to put in the bill at this time. I trust the committee will vote it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read as follows:

SEC. 9. That from and after two years from the date of the approval of this act no person who is engaged as an individual, or who is a member of a partnership, or is a director or other officer of a corporation that is engaged in the business, in whole or in part, of producing or selling equipment, materials, or supplies to, or in the construction or maintenance of, railroads or other common carriers engaged in commerce, shall act as a director or other officer or employee of any other corporation or common carrier engaged in commerce to which he, or such patnership or corporation, sells or leases, directly or indirectly, equipment, mateials, or supplies, or for which he or such partnership or corporation, directly or indirectly, engages in the work of construction or maintenance; and after the expiration of said period no person who is engaged as an individual or who is a member of a partnership or is a director or other officer of a corporation which is engaged in the conduct of a bank or trust company shall act as a director or other officer or employee of any such common carrier for which he or such partnership or bank or trust company acts, either separately or in connection with others, as agent for or underwriter of the sale or disposal by such common carrier of issues or parts of issues of its securities, or from which he or such partnership or bank or trust company purchases, either separately or in connection with others, issues or parts of issues of securities of such common carrier.

That from and after two years from the date of the approval of this act no person shall at the same time be a director or other officer or employee of more than one bank, banking association, or trust company organized or operating under the laws of the United States either of which has deposits, capital, surplus, and undivided profits aggregating more than $2,500,000; and no private banker or person who is a director in any bank or trust company, organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than $2,500,000, shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States. The eligibility of a director under the foregoing provisions shall be determined by the average amount of deposits, capital, surplus, and undivided profits as shown in the official statements of such bank, banking association, or trust company filed as provided by law during the fiscal year next preceding the date set for the annual election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter under said election.

No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place: *Provided*, That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares: *Provided further*, That a director or other officer or employee of such bank, banking association, or trust company may be a director or other officer or employee of not more than one other bank or trust company organized under the laws of the United States or any State where the entire capital stock of one is owned by stockholders in the other: *And provided further*, That nothing contained in this section shall forbid a director of class A of a Federal reserve bank, as defined in the Federal reserve act, from being an officer or director or both an officer and director in one member bank.

That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, either of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce, other than common carriers subject to the act to regulate commerce, approved February 4, 1887, if such corporations are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that an elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

That any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and shall be punished by a fine of $100 a day for each day of the continuance of such violation, or by imprisonment for such period as the court may designate, not exceeding one year, or by both, in the discretion of the court.

Mr. CLINE. Mr. Chairman, I offer the following amendment on page 29, line 18, to strike out the word "entire" at the end of the line and insert the words "not less than three-fourths of the," so that the provision shall read:

Provided, That nothing in this section shall apply to mutual savings banks not having a capital stock represented by shares: *Provided further*, That a director or other officer or employee of such bank, banking association, or trust company may be a director or other officer or employee of not more than one other bank or trust company organized under the laws of the United States or any State where the entire capital stock of one is owned by stockholders in the other.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 29, line 18, strike out the word "entire," at the end of the line, and insert in lieu thereof the words "not less than three-fourths of the."

Mr. CLINE. Mr. Chairman, it is well known to every man in the House who has had any connection with the banking business, and especially with national banks, that in the last five or six years there has been organized, in conjunction with national banks, trust companies. The stock of the trust company has almost universally been owned by the bank of which the trust company was an auxiliary, but where a former stockholder happened to die and the stock has been distributed, it is sometimes impossible for the banking company to own the entire stock. I have one or two instances in mind where it would work a hardship to the bank that sought to control all the stock of the trust company which was organized for the purpose of carrying long-time loans or building loans for the benefit of the bank's customers.

It would be impossible after the distribution of the stock of a deceased stockholder in some instances to get all of the stock. Of course, I understand it is the purpose of the law to make the bank and the auxiliary institution one banking institution, but I do not understand why they can not be protected just as easily with a control of three-fourths of the stock or more as with a control of the entire stock. It still would constitute one banking institution. Take the instance I have in mind. It is impossible for the bank to secure $200 of outstanding stock, and that under the bill would compel the bank that has the trust company in connection with it to close out the trust company business, to close out the long-time or building loans that it is accommodating its customers with, and I am at a loss to see what advantage it would be to compel the bank to have the entire stock when three-fourths of the stock is as effectual to prevent evil effects arising from interlocking directorates as all of it would be. It seems to me that the full purpose is accomplished by compelling the bank to have three-fourths of the stock and not to require the banks that fall under these conditions to close out their trust-company business.

Mr. FLOYD of Arkansas. Mr. Chairman, we desire to oppose the amendment offered by the gentleman from Indiana. We do not think that there is anything in this interlocking-directorate provision in this bill that will cause anybody to close out their business. We have not undertaken in this bill to deal with the stocks or to prevent common ownership of stocks, but we are attempting to prevent a well-known evil in the business world, an evil not only to the general public, but an evil to every stockholder in this Nation. The corporate business, honestly and properly managed, is the most desirable system of business ever devised by man. While that is true, it furnishes the greatest opportunity for dishonesty of any form of business. Whenever you permit the directors of banks and of different concerns to control these different concerns, you may rest assured that those directors are going to control the business of the several concerns in such a way that they will get the greatest profit and advantage out of it to themselves or to the particular concern in which they are most deeply interested. To give you an illustration, before the Judiciary Committee, in an investigation of another matter, we had before the committee a director of two coal companies who was also a director of a railroad company. He negotiated a deal between the two coal companies. He was a director in both, and then approved it as the director of the railroad company, and he was asked by a member of the committee if he could see any possible way whereby his personal interests could suffer in such a transaction, and he frankly admitted that he could not.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this point. I will in a moment. The object of this whole provision is in the interest of honesty, not only in the interest of the general public, but in the interest of the stockholders of the corporations themselves. The objection to the amendment offered by the gentleman from Indiana is this: We have a provision in the bill that where the stockholders of one company own all the stock of the other, there may be interlocking directors.

Mr. CULLOP. But that bank would have to be located in a city or village of not less than 100,000 inhabitants.

Mr. FLOYD of Arkansas. Of more.

Mr. CULLOP. The provision in the bill is:

No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants.

It would not apply to banks in a city of 50,000.

Mr. FLOYD of Arkansas. That proviso would.

Mr. CULLOP. I do not think so.

Mr. FLOYD of Arkansas. The proviso would apply anywhere in any kind of a city where the stockholders of one own the entire stock of another.

Mr. CULLOP. Well——

Mr. FLOYD of Arkansas. Now, the object of this legislation is to prevent the concentration of capital under one control. In the Pujo investigation it developed that four or five concerns in New York, through a system of interlocking directorates, controlled practically the finances of this country, and then it finally centered in one great concern in New York.

Mr. CLINE. Will the gentleman yield?

Mr. FLOYD of Arkansas. I do.

Mr. CLINE. But you provide in this bill that a national bank may have an auxiliary in the shape of a trust company.

Mr. CARLIN. May have one.

Mr. CLINE. Providing they own the entire stock. Now, what advantage does the law get in securing any of the stock above 75 per cent of the stock where they only seek to hold joint relationship with another company?

Mr. FLOYD of Arkansas. Well, the point is this: Where they own the entire stock the tendency would not be to concentrate, but would be rather to divide up, divide their capital; it is one ownership practically, and could at will draw the entire amount back into one concern, but if we except banks owning not less than 75 per cent of the stock of the other, it seems that we will leave a loophole that will permit the control and concentration of money that we are endeavoring to prohibit.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I will ask for five minutes more.

The CHAIRMAN. The gentleman from Arkansas asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FLOYD of Arkansas. Let me explain how this works. Your committee gave great consideration to this whole question, and especially to the question of the exemption of one trust company. Let me submit that since the adoption of the currency law the necessity that caused the creation of trust companies in connection with national banks does not exist to the same extent that it did previous to the adoption of that law, because under the old law a national bank could not lend money on real estate, and hence a trust company became an adjunct and handmaid of the national-banking system in order that they might do certain things which the banks were prohibited from doing under the law.

Mr. McKENZIE. Will the gentleman yield?

Mr. FLOYD of Arkansas. Not at this point. I want to make my point clear. Now, we gave very careful consideration to this provision and to every phase of the question, and you will bear in mind we have no jurisdiction over the State banks. We excluded the private banker, the State bank director, and the trust company director from a directorship on national banks upon the theory and question of qualification. We are allowed to prescribe the qualifications of the directors of national banks, and in prescribing and fixing the qualifications of the directors of national banks we provide in this bill that the private banker, the State bank director, and the director in the trust company shall not be eligible to be directors in national banks. Now, if you permit common directors in two banks on a percentage system, then you provide a condition where through the trust company or the State bank these great national banking institutions can have an affiliated trust company, and if you permit that affiliated trust company the national bank can maintain these interlocking connections with State banks and trust companies, and you thus permit the evil of interlocking directorates which in a somewhat different way heretofore obtained, as we believe, to the detriment of the public and especially to the detriment of the stockholders of the banks.

Mr. PHELAN. Will the gentleman yield just for a question?

Mr. FLOYD of Arkansas. Yes.

Mr. PHELAN. I do not wish to take issue with the committee, but can not you do it under this bill as it is framed where you allow the directors to be on a national bank and on a State bank at the same time, providing the stock is in the same ownership? It seems to me you allow the very thing you do not want to do.

Mr. FLOYD of Arkansas. That would be an extreme case.

Mr. PHELAN. But you are not limiting it to one of these cases.

Mr. FLOYD of Arkansas. It will be only one, and such a case would be rare indeed, and it would be of short duration where they own the entire stock, because the very moment a common ownership ceased and a part of the stock went into other hands there would be the inhibition of the law.

Mr. MANN. Mr. Chairman, will the gentleman yield to me?

Mr. FLOYD of Arkansas. I yield to the gentleman.

Mr. MANN. The gentleman is talking about a provision that covers cases in my town which I am somewhat familiar with. Take, for example, the case of the First National Bank of Chicago. There is the First National Savings & Deposit Co.——

Mr. FITZHENRY. The First Trust & Savings Co.

Mr. MANN. Yes. It is fixed so that you can not sell the stock of the one without selling the stock of the other.

Mr. PHELAN. Yes. That is done in the case of a bank that I know of.

Mr. MANN. They do a trust business. In this case that I speak of there is no chance for the stock to become scattered. You can not buy the stock of the First Trust without buying at the same time the stock of the First National, and you can not buy the First National stock without buying the First Trust stock. There is some arrangement by which that is held in that condition. Now, of course, if that were not the case no one could tell whether they owned all the stock, or three-quarters of the stock, or half the stock. A man to-day might be a legal director and to-morrow he might be a criminal.

Mr. FLOYD of Arkansas. We provide against that.

Mr. MANN. I understand that.

Mr. CULLOP. I wanted to ask the gentleman from Illinois a question.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that the gentleman from Arkansas [Mr. FLOYD] may have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CULLOP. In the case that the gentleman from Illinois speaks of as an illustration, that institution also deals with real estate, renting, mortgages, and so forth; guardianships; acts as administrator of estates, receiverships, and things that a national bank could not do.

Mr. MANN. It is a trust company.

Mr. CULLOP. It has outside earnings and outside profits and does business which national banks under the laws can not engage in, can they?

Mr. MANN. I do not say whether a national bank could or not. I think they do it sometimes.

Mr. CULLOP. A national bank could not collect rents from real estate and perform the duties incident to receiverships, guardianships, and things like that.

Now, I would like to ask the gentleman from Arkansas about a case that has been presented to me, where there is a national bank with deposits, profits, and capital stock of more than $2,500,000. Is there anything in this measure to prevent any director or stockholder or officer of that bank from being a director or other officer of a State or private bank that may be organized in the same county?

Mr. FLOYD of Arkansas. In the same place?

Mr. CULLOP. In the same county.

Mr. FLOYD of Arkansas. Certainly.

Mr. CULLOP. For instance, the stockholders of a national bank in a county seat will have, out in some little town, a State bank or a private bank, which becomes a feeder to the national bank at the county seat.

Mr. FLOYD of Arkansas. Did the gentleman say less than $2,500,000?

Mr. CULLOP. No; I said more than $2,500,000.

Mr. FLOYD of Arkansas. It is prohibited.

Mr. CULLOP. What is there in this measure to prohibit a director in a bank of that kind being a director in a State bank in the same county, in the same State, that will have perhaps $100,000 of capital stock and undivided profits, deposits, and so forth?

Mr. FLOYD of Arkansas. The wording of the bill prevents it.

Mr. CULLOP. I deny there is, and if there is I would like to have the gentleman point it out.

Mr. FLOYD of Arkansas. On page 29, on line 4, there is this provision:

> No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place.

No; that is not the provision I had in mind.

Mr. CULLOP. Does not the gentleman mean to refer to page 28, beginning line 8

Mr. FLOYD of Arkansas. Yes. The other was not the right provision. This provision reads:

That from and after two years from the date of the approval of this act no person shall at the same time be a director or other officer or employee of more than one bank, banking association, or trust company organized or operating under the laws of the United States either of which has deposits, capital, surplus, and undivided profits aggregating more than $2,500,000——

Mr. CULLOP. That applies to national banks only, and does not refer to State or private banks.

Mr. FLOYD of Arkansas. Wait until I get through. I read further:

And no private banker or person who is a director in any bank or trust company, organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than $2,500,000, shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States.

Mr. CULLOP. Now, if the gentleman will permit right there, in order to make that prohibition it would have to be a private bank with a capital and surplus and profits and deposits amounting to $2,500,000. It does not apply to State and private banks with a smaller sum.

If it was a bank of $100,000, then a director or officer in the national bank that had more than $2,500,000 could be a director in that State bank, and there is nothing here to prohibit it.

Mr. FLOYD of Arkansas. I think I can make the gentleman understand that it is absolutely prohibitive.

Mr. CULLOP. If there is anything, I shall be glad to have the gentleman do so. I am asking the question for information.

Mr. FLOYD of Arkansas. I will try to make it plain. I think it is prohibitive. It says:

That from and after two years from the date of the approval of this act—

Mr. CULLOP. Where is the gentleman reading?

Mr. FLOYD of Arkansas. I am reading from line 8, page 28—

No person shall at the same time be a director or other officer or employee of more than one bank, banking association, or trust company organized or operating under the laws of the United States either of which has deposits, capital, surplus, and undivided profits aggregating more than $2,500,000.

The words "either of which" would cover it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CULLOP. I ask unanimous consent that the gentleman's time be extended five minutes, because I consider this a profitable discussion.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the time of the gentleman from Arkansas be extended five minutes. Is there objection?

There was no objection.

Mr. FLOYD of Arkansas. As I stated at the outset we deal with the eligibility of the bank directors, and if either of these banks specified has the capital, surplus, and so forth, then the person can not be at the same time a director in the two. That provision would exclude him. That is, if he was a director in the little bank, he would be ineligible to be a director in the large bank, for the reason that the provision relates to his eligibility, and he could not be in both of them. One might be a very small bank.

Mr. CULLOP. But if the gentleman will begin at the semicolon and read the next subdivision of the paragraph, and then construe that with the previous provision that he has read. I think he will find that if one of those banks is a private bank or a State bank there is nothing in this provision that will prohibit one of the directors in the national bank with a capital, deposits, and profits amounting to more than $2,500,000 from being a director in the private or State bank, provided it has not a capital, deposits, and surplus of more than $2,500,000. Now, I have asked that question because I have had bankers writing me about that subject from my district. A number of them are interested in small banks in different localities. I have examined the bill carefully, and I can find nothing to prohibit the same.

Mr. McCOY. Will the gentleman allow me——

Mr. FLOYD of Arkansas. I will answer the gentleman's question.

There is nothing in this bill to prevent that.

Mr. McCOY. I should like to call the gentleman's attention to line 14, page 28—

And no private banker—

Now go down to line 18—

shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States.

Does not that absolutely exclude private bankers?

Mr. CULLOP. Oh, no.

Mr. SABATH. Oh, no.

Mr. CULLOP. He can not be in two banks organized under the laws of the United States, but there is not a word excluding him from the State bank or private bank. If there is, I would be glad to have it pointed out.

Mr. FLOYD of Arkansas. I desire to say, further——

Mr. CARLIN. It was not intended to do that.

Mr. PHELAN. If the gentleman means two State banks, we can not prohibit his being a director of both. We have nothing to do with that, or at any rate we have not yet assumed jurisdiction if we have it.

Mr. FLOYD of Arkansas. When this bill was originally drafted by the committee we made its provisions broad and covered in scope every kind of bank, but in the hearings——

Mr. CULLOP. But the gentleman from Virginia [Mr. CARLIN] said it was never intended to cover such a case as I am putting to the gentleman from Arkansas, and if there is, I want to know it.

Mr. FLOYD of Arkansas. As finally prepared, it was not intended to cover that. If the gentleman will read the first bills he will see that they contain a sweeping prohibition of interlocking directorates, but in the hearings we found that there were so many conditions that existed throughout the country that were perfectly harmless that we made many exceptions. We put in a limitation prohibiting common directors where either of the national banks has a capital, surplus, and undivided profits of $2,500,000. In that case they are prohibited from having common directors, although one may be the smallest kind of a national bank.

But when it comes to the question of a State bank, the limitation is $2,500,000. That disqualifies the private banker or State bank director from being a director of a national bank or national banking association outside of cities of 100,000 inhabitants.

Mr. CULLOP. Let me put this proposition: As I understand it, a director of a national bank, with its deposits and capital stock and undivided profits of $2,500,000, can be director in a State or private bank organized in the same locality, provided its capital stock, profits, and undivided deposits amount to less than $2,500,000?

Mr. FLOYD of Arkansas. If he is not within a city exceeding 100,000 inhabitants.

Mr. CULLOP. I want to call the gentleman's attention to provision on page 29:

No banking association or trust company—

No bank, banking association, or trust company organized or operating under the laws of the United States in any city or incorporated town or village of more than 100,000 inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association, or trust company located in the same place.

Now, if the gentleman will observe, the rest of that section down to the word "bank," in line 23, is one continuous sentence, so that this provision as to $2,500,000 and the director in one bank being a director in another is applied only in cases where the bank with its $2,500,000 is located in a city of more than 100,000 inhabitants.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

Mr. CULLOP. I ask that the gentleman have five minutes more.

Mr. STAFFORD. Reserving the right to object, I would like to know if there is any limitation on debate?

Mr. FLOYD of Arkansas. I do not understand the gentleman's position to be correct.

Mr. CULLOP. It must be in a city of more than 100,000 inhabitants.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the gentleman from Arkansas proceed for five minutes more. Is there objection?

Mr. CARLIN. I would suggest to the gentleman that we dispose of the pending amendment and then take this question up and discuss it.

Mr. CULLOP. That is what this amendment is.

Mr. SABATH. The amendment applies to this very provision.

Mr. FLOYD of Arkansas. If the gentleman from Indiana will permit me, I will explain the two provisions. If the two banks are in a city exceeding 100,000 inhabitants, then I understand that there can be no common directors, regardless of capital. The limitation of $2,500,000 does not apply in a city. It simply prohibits in cities exceeding 100,000 inhabitants there being common directors in national banks or banks operating under the laws of the United States, like those State banks which took advantage of the late act, without regard to capitalization or

without regard to the amount of capital, surplus, and undivided profits. In all other cases the rule is that $2,500,000 capital, surplus, and undivided profits applies throughout the country.

Mr. SABATH. You do make exception in this provision, and you mean that it shall apply to only cities having a population over 100,000.

Mr. FLOYD of Arkansas. No; that is not it. That inhibition is that there shall not be common directors at all, without regard to the limitation, in cities of 100,000 population.

Mr. FARR. What was the theory of the committee in discriminating against cities of that size?

Mr. FLOYD of Arkansas. On the theory that the banking interest is generally centered in cities. We had complaints before our committee, especially in the larger cities, that men who offered perfectly good security were, on account of the chain of banks having common directors, say, in a dozen different banks—a man perfectly responsible, with good security, would make application for a loan, and be refused by one bank, and then would be refused in turn by every other bank in the city, through the influence of that common director.

Mr. PHELAN. Mr. Chairman, I would like to ask the chairman of the committee a question. I am not quite clear as to lines 14 to 19, on page 29. Where it says the entire capital stock, that does not mean necessarily joint ownership of all the stocks in both banks? For instance, if you have two banks, one a State and one a national, with a million dollars capital, and one has 20 stockholders and one 10 stockholders, if five of the latter own all the stock of the former, that is enough to get the two banks within these provisions, is it not?

Mr. FLOYD of Arkansas. Yes.

Mr. PHELAN. Suppose, under these conditions, 10 men in a national bank own all the stock of a trust company, and there are common officers and directors in both banks. Suppose 1 of the 10 men sells his stock, does it follow that immediately the directors have to resign their positions and the officers have to get out? Is there any provision in the bill to prevent such a hasty change?

Mr. FLOYD of Arkansas. I am glad that the gentleman from Massachusetts has asked that question. We realize the importance of so wording the statute that a director might not be put in the attitude of being eligible one day and a criminal the next. So we provide that where the disqualification is based on capitalization, surplus, and undivided profit, you shall take the average for the preceding year, and that when he is eligible at the time of his election, his eligibility continues throughout the year.

Mr. PHELAN. Yes; but this is not in the capitalization, surplus, and undivided profit section. This is in a different paragraph. It is the stock and not the amount of the capitalization that applies on page 29.

Mr. FLOYD of Arkansas. I will say to the gentleman from Massachusetts that if that is not covered in the exceptions it ought to be.

Mr. PHELAN. I just mentioned it because I do not see it, and I thought possibly I might have missed it.

Mr. FLOYD of Arkansas. The gentleman will realize the difficulty in providing a definite rule making it a criminal offense for a man to act as a director under the conditions described here. We fix it so that if he is eligible at the time of his election his eligibility continues for a year, although the condition of his bank might change or the capitalization be increased so that he would be ineligible under the terms of the provision and also in regard to the other provision, as to population, we make similar exceptions and provide that if eligible when elected his eligibility continues for a year; but if the particular point raised by the gentleman from Massachusetts is not covered it certainly ought to be, and we ought to make it clear.

Mr. PHELAN. My impression is that it is not covered in this particular place.

Mr. FLOYD of Arkansas. I am glad the gentleman has called our attention to that, because the theory upon which we are proceeding is to provide that if the director is eligible under this law at the time of his election, no matter what happened in the meantime, he shall be eligible for a year, the usual period for which bank directors are elected.

Mr. CLINE. Mr. Chairman, will the gentleman yield?

Mr. FLOYD of Arkansas. Yes. I am inclined to think that we overlooked that particular provision, and I desire to say frankly to the gentleman from Massachusetts that if we have it is important that an amendment should be offered to cure that defect.

Mr. PHELAN. I can offer that amendment later, can I not?

Mr. FLOYD of Arkansas. Yes.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. CLINE. Mr. Chairman, I ask unanimous consent that he be permitted to continue for five minutes more.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent that the gentleman from Massachusetts be permitted to continue for five minutes. Is there objection?

Mr. BOOHER. Mr. Chairman, I object.

Mr. WINGO. Mr. Chairman, I want to ask for some information from either the gentleman from Virginia [Mr. CARLIN] or the gentleman from North Carolina [Mr. WEBB]. Is there anything in this section that reaches this proposition? Let us say there is a national banking association in Kansas City that owns and controls 45 banks in the States of Oklahoma and Arkansas, and there is one man who is a common director in them all. Is there anything in this that will prohibit that?

Mr. CARLIN. Oh, yes; if the capital of any one of them exceeds two and a half million dollars or if the bank be situated in a city of 100,000 inhabitants or more. If the capital is smaller or the population smaller it does not prohibit it.

Mr. WINGO. Suppose there is a private banker in Missouri who owns a controlling interest and is a common director in a great many small banks scattered through those different States. Does it reach that condition?

Mr. CARLIN. It does not reach any number of small banks unless the capital of some one of them, surplus and deposits, should amount to two and one-half millions of dollars, or unless the bank should be situated in a city of 100,000 inhabitants.

Mr. WINGO. Suppose it is a national banking association that has a capital of two and a half million dollars. In other words, take a banking association that comes within the prohibited class in Kansas City. Is there anything to prohibit it from owning and controlling through a joint director 45 State banks in Oklahoma and Arkansas?

Mr. CARLIN. The bank itself?

Mr. WINGO. Yes.

Mr. CARLIN. No. This bill does not deal with combinations relating to bank stocks.

Mr. WINGO. I say controlled through a common director.

Mr. CARLIN. They can not have a common director if at any time the capital, surplus, and deposits reach the sum of two and a half millions. He could not be a director in any other bank.

Mr. WINGO. That is a director in banks organized under the laws of the United States.

Mr. CARLIN. Yes; or those that are not. Of course, we can only reach State banks as they are related to national banks.

Mr. WINGO. It is provided on page 28 of the bill that no person shall be at the same time a director in more than one bank organized under the laws of the United States which shall have a capital of more than two and a half millions. There is nothing to prohibit that person from being a director in a national banking association having two and a half million dollars and at the same time being a director in 45 State banks in other States, is there? He can still be a director in a national bank of two and a half millions, and you do not prohibit——

Mr. CARLIN. If he is a director in a bank of two and a half millions surplus capital and undivided profits, he is prohibited from being a director in any other bank.

Mr. WINGO. Not in any other bank, but in any other United States bank.

Mr. CARLIN. In any national bank.

Mr. WINGO. But does it prohibit him from being a director in 45 State banks?

Mr. CARLIN. I think it does; yes.

Mr. WINGO. If they are State banks they are not organized under the laws of the United States.

Mr. CARLIN. We have authorized him to be a director in one State bank and under only one condition, and that is where a common stock ownership exists in the same party.

Mr. WINGO. I would like for the gentleman to point out in this section where you prohibit a man from being a director in a national bank of two and a half million capital and at the same time a director in a private or a State bank, however great their number may be.

Mr. CARLIN. We had that question up a moment ago.

Mr. CULLOP. And we settled it just against what the gentleman decided now.

Mr. CARLIN. No; we did not.

Mr. CULLOP. Exactly.

Mr. PETERSON. If the gentleman will see the beginning of section 9, it says:

> That from and after two years from the date of approval of this act no person at the same time shall be a director or other officer or employee in more than one bank.

Mr. WINGO. What kind of a bank? A bank organized and operated under the laws of the United States.

Mr. PETERSON. Any kind of a bank.

Mr. WINGO. But more than one bank or association or trust company can operate under the laws of the United States. In other words, that inhibition goes to the national bank directors.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CARLIN. That is as far as we can carry it.

Mr. CULLOP. Mr. Chairman, I would like to have the attention of the gentleman from Arkansas. I think I understand this proposition just as the gentleman does, and that is if he means one director, a man may be a director in a bank of $2,500,000. capital, surplus, and deposits combined, organized under the laws of the United States, but he can not be a director in any other bank organized under the laws of the United States, but there is nothing to prohibit him from being a director in a State or private bank in this bill.

Mr. WINGO. There is nothing to prohibit, but I want to get the opinion of the gentleman from Indiana on this. As I understand, there is nothing to prohibit a Missouri preacher who happens to be a director in a Kansas City national bank also from being a director and having dominating control in 45 banks in Oklahoma and Arkansas.

Mr. CULLOP. Nothing, unless he has not the capital to own the stock.

Mr. FLOYD of Arkansas. That is only true where banks have less than $2,500,000 capital.

Mr. CULLOP. Yes.

Mr. CARLIN. That is the limit placed on it.

Mr. CULLOP. But a man can be a director in a national bank with a stock of $2,500,000 capital, deposits, and surplus and there is nothing to prohibit him from being a director in a State bank or private bank or in numerous banking concerns providing their capital does not run above $2,500,000.

Mr FLOYD of Arkansas. That is what I explained to the gentleman from Indiana before.

Mr. CULLOP. But the gentleman from Virginia [Mr. CARLIN] was combating that proposition just a moment ago, and hence I raised the question again.

Mr. CARLIN. It was a misunderstanding, if that is the case. I tried to make it plain that the capital had to be $2,500,000.

Mr. CULLOP. But the gentleman did not state that, and that is why I called attention to the fact again.

Mr. FLOYD of Arkansas. Will the gentleman from Indiana permit me to answer further the gentleman from Massachusetts in regard to that exception?

Mr. CULLOP. I will be glad to yield to the gentleman.

Mr. FLOYD of Arkansas. I think that the case referred to by the gentleman from Massachusetts is covered in lines 15, 16, and 17.

Mr. CULLOP. What page?

Mr. FLOYD of Arkansas. Page 30.

The eligibility of a director under the foregoing provision shall be determined by the aggregate amount of the capital, surplus, and undivided profits, exclusive of dividends declared but not paid to stockholders, at the end of the fiscal year of said corporation next preceeding the election of directors, and when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter.

Mr. PHELAN. Mr. Chairman, will the gentleman yield for just a minute?

Mr. FLOYD of Arkansas. Yes.

Mr. PHELAN. I am not certain whether that covers it or not.

Mr. FLOYD of Arkansas. It refers to that act.

Mr. PHELAN. Whether or not it does with reference to the director, it does as to an officer or employee; but those are the words used on line 16 on page 29—"director or other officer or employee."

Mr CULLOP. That refers to some other corporation than a bank. That does not apply to a bank. If the gentleman from Massachusetts [Mr. PHELAN] and the gentleman from Arkansas [Mr. FLOYD] will observe, commencing on line 24 of page 29, the language is—

That from and after two years from the date of the approval of this act no person at the same time shall be a director in any two or more corporations, either of which has capital, surplus, and undivided profits aggregating more than $1,000,000, engaged in whole or in part in commerce.

This has no reference to the banking business, but to other affairs.

Mr. CARLIN. That relates to industrial commerce.

Mr. CULLOP. Yes. That does not relate to banking. That relates to industrial and commercial corporations, or institutions of that kind, but has no reference whatever to the banking business.

Mr. FLOYD of Arkansas. I will state to the gentleman from Indiana that on page 29, in reference to the banking section, the same language is repeated again on line 1 of page 29:

And when a director has been elected in accordance with the provisions of this act it shall be lawful for him to continue as such for one year thereafter under said election.

Mr. CULLOP. Yes; but that refers back to the qualification on page 28 of the $2,500,000 capital, deposits, and surplus.

Mr. FLOYD of Arkansas. I think not. It says "in accordance with the provisions of this act." I think that is broad enough to cover it. He is eligible when he is elected. That is on lines 1, 2, and 3 of page 29.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. CULLOP] has expired.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to repeat that if this provision is not clear in this respect we would be glad to have an amendment offered to clarify it.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Indiana [Mr. CLINE].

Mr. STAFFORD. Mr. Chairman, let us have this reported again. It has been some time since it was reported.

The CHAIRMAN. Without objection, the Clerk will report the amendment again.

The Clerk read as follows:

Amendment offered by Mr. CLINE:

Page 29, line 18, strike out the words "the entire," at the end of the line, and insert the words "not less than three-fourths of the," so that the lines as amended will read: "more than one other bank or trust company organized under the laws of the United States or any State where not less than three-fourths of the capital stock of one is owned by stockholders in the other," etc.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

Mr. McCOY. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from New Jersey [Mr. McCOY] offers an amendment which the Clerk will report.

The Clerk read as follows.

Strike out, on page 28, lines 8 to 25, inclusive, and on page 29, lines 1 to 23, inclusive, and insert in place thereof the following:

"Whenever an officer or director of a bank or trust company, member of a Federal reserve bank, shall be also a private banker, or an officer or director of any other bank or trust company, and it shall appear to the Federal Reserve Board upon proof, after due notice of hearing and an opportunity to be heard, that such officer or director is taking advantage of his position so as substantially to lessen competition between such banks or trust companies or any of them, or between himself and any such bank or trust company, or that he is exercising improper influence over any such bank or trust company in the granting or refusing of credit, the Federal Reserve Board shall remove such officer or director from one or all of said banks organized under the laws of the United States and may require the removal of such officer or director from such State bank or trust company, or in the alternative the retirement of such State bank or trust company from membership in said Federal reserve bank."

Mr. WEBB. Mr. Chairman, I ask unanimous consent that all debate on this amendment be closed in 10 minutes.

Mr. MANN. Why not limit debate on the section?

Mr. WEBB. I would be very glad to do that.

Mr. MANN. Let us see who has an amendment on the section.

Mr. GARDNER. Mr. Chairman, reserving the right to object, if the amendment of the gentleman from New Jersey [Mr. McCOY] is not adopted, I have an amendment that I should like to offer for myself.

Mr. WEBB. Would the gentleman like to have five minutes to discuss it?

Mr. GARDNER. It is on the same line as that of the gentleman from New Jersey.

Mr. WEBB. I ask, Mr. Chairman, that all debate on this section and amendments thereto be closed in 20 minutes.

Mr. MANN. Well, we want a little more time than that.

Mr. WEBB. I will give the gentleman all he wants.

Mr. MANN. We will take 15 minutes on this side.

Mr. WEBB. Thirty minutes, then, Mr. Chairman.

Mr. BARTLETT. Mr. Chairman, I want to say that I shall not object, but I desire to offer an amendment on page 30, line 21, to put in the words "not exceeding" just before the words "$100 a day." I do not care to discuss it. That is all.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that all debate on this section and all amendments thereto close in 30 minutes, one half of the time to be controlled by himself, and the other half to be controlled by the gentleman from Minnesota [Mr. VOLSTEAD]. Is there objection?

There was no objection.

Mr. McCOY. Mr. Chairman, the amendment which I have offered strikes out of the section in regard to interlocking bank directorates that part which controls and limits them by the amount of $2,500,000 in the one instance and by the population of the town in which the banks are situated in the other

instance, and proposes to substitute for that a provision establishing two principles which it is believed should be followed in banking; and then it provides that if either of those principles be violated, on complaint of the violation being made to the Federal Reserve Board, the Federal Reserve Board, after a hearing, shall act.

Now, I introduced as drastic an interlocking directorate bill affecting banks as could possibly be imagined. That was before we had the hearings. But after the hearings I was satisfied that in order to remedy some admitted evils, of which I complained as much as anybody, and which exist principally in some of the large cities, we might easily go too far and hit a great many people who are directors in banks and who are entirely innocent of any attempt to do the sort of thing complained of. The complaints when boiled down were in substance that on the one hand banks suppress competition and on the other hand that they unfairly discriminate in making loans. Now, this amendment provides, in substance, that there must be competition, and that there must be no unfair discrimination in making loans. Then it provides, as I said before, that on complaint of the violation of either of those two general principles, the Federal Reserve Board shall remove the officer or director complained of from one or all of said banks organized under the laws of the United States; that is as far as we have power to go directly in the way of removal, and the proposed amendment provides that they may require the removal of such officer or director from such State bank or trust company, or the withdrawal of the bank or trust company from the Federal reserve bank. In other words they might say, "You must get out of the State bank or trust company," and failing that, in the alternative, might require the retirement of a State bank or trust company from membership in the Federal reserve bank.

Now, why does not that entirely take care of this whole situation? If the abuse exists, here is the power to remedy the abuse; but by making these artificial limitations—because they are purely artificial limitations—of $2,500,000 of capital, surplus, deposits, and undivided profits in the one instance, and of 100,000 population in the other, while we may remedy some of the evils, we are pretty certain to injure unnecessarily a great many people of the kind of whom no complaint has been made.

Mr. BARTON. Will the gentleman yield?

Mr. McCOY. Certainly.

Mr. BARTON. Under your amendment who makes the complaint?

Mr. McCOY. Anybody can make the complaint. It does not limit it to any particular person. Presumably it will be the person who has been injured.

As I say, from all over the country we have encountered, or have been informed in the testimony, of situations such as exist in and about Chicago, New York, St. Louis, San Francisco, and other places, and, moreover, in other parts of the country where they have no very large cities.

The CHAIRMAN. The time of the gentleman has expired.

Mr VOLSTEAD. I yield 15 minutes to the gentleman from California [Mr. KENT].

Mr. KENT. Mr. Chairman, it seems to me that this is a sane and sensible proposition. This amendment seeks to cure an evil and not to stop the ordinary course of business. It seems to me it is a remedy for the trust evils of which we complain. The alternative is that those men who invest in bank stocks and who under this bill would be ineligible for directors would naturally put in dummies to act as directors for them. It is very much better that capable and able business men, who have a knowledge of credit, who have a knowledge of business, should act as directors of banks than that they, having invested in bank stocks, should put in dummies to represent them. No one could be more opposed than I am to the limitation of credit and the unfair practices that have debauched the commercial world; but I, of my own knowledge, know that men of capital who invest in bank stocks are naturally anxious to watch those investments and would not take the responsibility of banking shown in the double liability of national-bank stock unless they knew what was going on in the banks in which they were interested.

If at any time these directors, by collusion, by unfair practices, by blacklisting, refusal of credit, or combination, should do things that are contrary to the public welfare, under this amendment they can be disassociated from protection or control of their investments. But as things are to-day, to provide that men must be limited in their directorship in corporations in which they are interested, not on the ground of evil they may do by combinations contrary to law and to public policy, but merely on account of the fact of their caring for their investments, it seems to me that such a course must lead necessarily to the incompetence born of dummy directors and consequent chaos in business organization. [Applause.]

Mr. WEBB. Mr. Chairman, I yield four minutes to the gentleman from Arkansas [Mr. FLOYD].

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from New Jersey [Mr. McCOY] on the ground that he proposes to change the whole theory of this bill and to interject into the provisions of it a new and untried experiment, and to legislate the power to deal with bank directors to the Federal Reserve Board, which, perhaps, in the course of a very short time, will need regulating as badly as do the directors of banks now. That is his proposition.

Now, I believe in dealing with corporations as you would deal with individuals. This is a criminal statute and I believe in a criminal statute we should say to corporations and to persons acting as agents of corporations what they can do, and give them the widest latitude to do things not prohibited in the law; we should put them on notice of what is prohibited by statute, but when you adopt a system of creating boards and letting the board exercise favoritism on the one hand and their prejudices on the other, then indeed we will enter on an era of dissatisfaction, strife, and discontent in this country that will disturb the business interests of the entire country.

We believe in regulating and controlling, but not in disturbing, legitimate business. We believe that great evils have grown out of interlocking directorates, and everybody recognizes that condition who has given the subject any consideration.

The gentleman from California [Mr. KENT] says that it will only create dummy directors. What have we now? We have one great and powerful director, say, of a railroad company, director of the holding company, director of all the affiliated corporations owned by the railroad company and by the holding company, and who are the other directors? They select some employee of that company and of the affiliated companies, give him one share of stock, make him sign up a transfer to them in blank, and then appoint him a director. Is he not a dummy director, pure and simple? We desire to prevent this evil; we desire to do it in an intelligent and sensible way. We desire to put all men upon notice, so that they will know when they are violating the law and when they are not.

It has been argued that certain men are alone capable of carrying on the business of a great concern. What an absurdity. There is one phase of this legislation that has been overlooked largely. It was mentioned by the President, and that is the opportunities that will be offered by this legislation to thousands of young men now shut off from business opportunity and who are now mere hirelings. They are not getting a fair chance in the business world. It will open up a thousand avenues for them. Where we now have 1 man a director of 50 corporations we will have 50 capable men occuping places of importance in the business world, places of responsibility, and the result will be good to the business interests of this country.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. VOLSTEAD. I will yield five minutes, Mr. Chairman, to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER. Mr. Chairman, the trouble with the majority is that they do not wish to injure any legitimate business, but nevertheless they do injure legitimate business. I have in mind an instance in my own district, and I have no doubt that similar instances could be found in every other district which is suburban to Boston. In the city of Salem in the Merchants Bank we have a director who is also a director in the Liberty Trust Co. in Boston, a large concern. He remains a director in the Merchants Bank of Salem out of local pride, greatly to the benefit of the community. There is no connection on earth between the Liberty Trust Co. in Boston and the Merchants Bank in Salem, and yet because the Liberty Trust Co. has over two and a half millions in assets and deposits, this bill says that we must deprive Salem of this director's services. I have no doubt the same situation exists in the district represented by the gentleman from Massachusetts [Mr. MITCHELL]. I have no doubt that the same situation exists in every district suburban to Boston. We are depriving the national banks in those suburban districts of the services of men who are actuated solely by public spirit. I prefer the amendment offered by the gentleman from New Jersey [Mr. McCOY] to the amendment which I shall offer myself if his amendment is rejected. The McCoy amendment bears no relation to what the gentleman from Arkansas [Mr. FLOYD] has been saying. The gentleman has been talking about individuals who serve on 50 directorates.

Certain men may perhaps serve on a great number of miscellaneous directorates, but there is no man on earth who

serves on the boards of 50 national banks or trust companies. The amendment of the gentleman from New Jersey says this: Let us permit a man to serve on two or more national banks or trust companies, no matter what their size may be; but if he does wrong when so serving, then the Federal Reserve Board is to have him removed from his position and he will not be permitted to serve any longer. I consider that the gentleman from New Jersey has proposed a very liberal and proper amendment. My amendment, which I shall offer if his is defeated, is not so liberal. My amendment provides that the Federal Reserve Board may issue a revocable permit allowing a man to serve on the board of directors of two banking institutions, no matter what their size.

The amendment of the gentleman from New Jersey is just. If, however, you gentlemen are unwilling to agree that a man shall be permitted to serve in two large banking institutions until removed for misconduct, perhaps you will consent to my amendment. The gentleman from New Jersey proposes to allow service on two large boards, unless forbidden by the Federal Reserve Board. I propose to allow service on two large boards if specially permitted by the Federal Reserve Board. You gentlemen who come from country districts ought not to deprive us who live near large cities of the best banking talent we can find—so far, of course, as is consistent with the public welfare.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. VOLSTEAD. Mr. Chairman, I yield four minutes to the gentleman from Tennessee [Mr. AUSTIN].

ACTION OF TENESSEE BANKERS' ASSOCIATION.

Mr. AUSTIN. Mr. Chairman, I desire to have read from the Clerk's desk resolutions unanimously adopted by the Bankers' Association of Tennessee at their annual meeting held at Chattanooga on the 29th day of May. This association is composed of the National, State, and private bankers of that State, and its membership I should think politically is at least two-thirds Democratic.

The CHAIRMAN. Without objection, the Clerk will read:

There was no objection, and the Clerk read as follows:

Whereas Congress has now been in session almost continuously for more than a year; and

Whereas during that time a great amount of legislation has been passed, the entire tariff revised, the entire currency system of the United States has undergone a complete and fundamental change; and

Whereas it will take much time for the banking interests to adjust themselves to these new laws; and

Whereas there are now pending before Congress numerous bills which, if passed, will undertake the regulation of all business institutions with which banks are constantly doing business, and not only will banks be undergoing, as they are undergoing, a complete change of methods, but the business with which they are constantly in contact will themselves be undergoing a complete change: Be it

Resolved, That we believe that the country is sorely in need of a period of legislative rest while the business of the country is readjusting itself to the new currency and banking bill, and that we consider the passage of any great amount of new legislation by Congress at this time to be unhelpful to the general welfare of the country, and we believe the passage of such legislation will rather tend to further stagnate business than to stimulate it: Be it further

Resolved, That the secretary be hereby directed to forward to our Congressmen and our Senators a copy of this resolution.

DANIEL WEBSTER'S VIEWS.

Mr. AUSTIN. Mr. Chairman, in connection with the discussion we have had to-night, participated in by the gentleman from Massachusetts [Mr. GARDNER], I wish to read an extract from a speech made by Daniel Webster 81 years ago in the Senate of the United States in reference to banks, corporations, and monopoly. This is taken from a speech by Mr. Webster in the Senate in 1833 and has a bearing on the pending measure:

There are persons who constantly clamor. They complain of oppression, speculation, and pernicious influence of accumulated wealth. They cry out loudly against all banks and corporations and all means by which small capitalists become united in order to produce important and beneficial results. They carry on mad hostility against all established institutions. They would choke the fountain of industry and dry all streams. In a country of unbounded liberty they clamor against oppression. In a country of perfect equality they would move heaven and earth against privilege and monopoly. In a country where property is more evenly divided than anywhere else they rend the air shouting against agrarian doctrines. In a country where wages of labor are high beyond parallel they would teach the laborer that he is but an oppressed slave.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HOUSTON having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Tulley, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 15190. An act to amend section 103 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of Congress approved March 3, 1913.

ANTITRUST LEGISLATION.

The committee resumed its session.

Mr. WEBB. Mr. Chairman, I hope the committee will not adopt the amendment of the gentleman from New Jersey. We feel that it would make this important provision in the bill practically useless. It is well known that the influences of interlocking directorates are such that you can not place your hand upon the sore spot, you can not place your hand upon the source where the damage to a business man is done. If you transfer the right to the Federal Reserve Board to discover where the wrong is done, you might as well throw it away, for in my opinion the reserve board would not find it. These influences are so subtle that a ferret could not find where a man was hurt. Complaint has been made about a string of banks in Boston before our committee. There are three or four different banks there in which directors were common in them all. A business man or two would apply to one of these banks for a loan. Nothing doing. He would then apply to another bank for a loan, and another bank, and finally he is shut out entirely. Now, the reserve board could not tell who did that, where the information came from, so the committee thought it better to make a hard and fast rule in order that no man could serve on these boards as an interlocking director, rather than transfer it to the board, which might never, or certainly would hardly ever, find the source of injury or wrong, and we think therefore it is better to adhere to the rule laid down in the bill, and I hope the committee will do so.

Mr. BARNHART. Will the gentleman yield?

Mr. WEBB. Simply for a question.

Mr. BARNHART. The gentleman from Massachusetts [Mr. GARDNER] repeatedly said that under the pending amendment the reserve board would have the right to remove directors caught in wrongdoing, or words to that effect. Is there anything in the present law that would prevent the removal of directors under such conditions?

Mr. CARLIN. Nothing; any director caught in wrongdoing can be removed now. A clause in the banking and currency bill provides it.

Mr. GARDNER. Will the gentleman yield to me; can I have the attention of the gentleman from Virginia?

Mr. CARLIN. Certainly; excuse me; the gentleman behind was calling my attention to something.

Mr. GARDNER. Can any director be removed to-day for any action which will lessen the competition between two banks in both of which he is a director?

Mr. CARLIN. Not for lessening competition; of course not.

Mr. GARDNER. That is the point of the amendment of the gentleman from New Jersey about which the gentleman from Indiana asked.

Mr. CARLIN. The difficulty with the gentleman from Boston is this——

Mr. GARDNER. I am not from Boston.

Mr. CARLIN. With the gentleman from Massachusetts is this: We are endeavoring to drive at a system, whereas this amendment undertakes to deal with individuals and specific cases.

Mr. GARDNER. The gentleman is driving at a system with which the gentleman has no experience in that part of the country from which the gentleman comes.

Mr. CARLIN. The gentleman is very much mistaken. I expect I have had as much experience if not more than the gentleman.

Mr. GARDNER. Well, perhaps.

Mr. WEBB. Mr. Chairman, I ask for a vote, if discussion is ended.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey.

The question was taken, and the amendment was rejected.

Mr. BARTLETT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 30, line 21, after the word "of" when it occurs the first time in the line, insert the words "not exceeding."

Mr. BARTLETT. Mr. Chairman, has all debate been exhausted.

The CHAIRMAN. The gentleman from North Carolina has three minutes remaining.

Mr. WEBB. I yield one minute to the gentleman from Georgia.

Mr. BARTLETT. Mr. Chairman, the bill as it is now presented makes a flat fine of $100 a day, irrespective, and gives the court no discretion in the matter. The amendment I offer is simply to make it not exceeding $100 a day. There may be

cases where the court would like not to impose the largest penalty, and this amendment simply gives the court some discretion in the matter so as to adjust the penalty to the case.

Mr. WEBB. Mr. Chairman, the committee sees no objection to the amendment. We think it is a fair one.

The question was taken, and the amendment was agreed to.

Mr. GARDNER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

"Page 29, line 3, after the word 'election,' insert '*Provided*, That the Federal Reserve Board may grant to any person a revocable permission to serve at the same time as a director or other officer or employee of an additional bank, banking association, or trust company, notwithstanding anything contained in this paragraph, whenever it is satisfied that such permission may be granted without detriment to the public welfare and without the creation of monopoly or restraint of trade: *Provided further*, That in his annual report the Secretary of the Treasury shall specify each permission granted in accordance with the preceding proviso together with the reasons therefor.'"

Mr. WEBB. Mr. Chairman, of course the committee is opposed to that amendment because it changes the whole principle of the interlocking-directorates section of this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken, and the amendment was rejected.

Mr. REILLY of Connecticut. Mr. Chairman, I desire to offer an amendment, which I would like the Clerk to report.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 29, lines 6 and 7, strike out the words "one hundred thousand" and insert in lieu thereof the words "two hundred thousand."

Mr. REILLY of Connecticut. Mr. Chairman, I do not desire to discuss this amendment further than to say——

Mr. MANN. Mr. Chairman, has the gentleman time?

The CHAIRMAN. The time has been fixed.

Mr. REILLY of Connecticut. I had an arrangement made with the chairman to offer an amendment.

Mr. WEBB. If my time is not exhausted, I will be glad to yield to the gentleman.

The CHAIRMAN. The gentleman from North Carolina has two and one-half minutes remaining.

Mr. WEBB. I yield to the gentleman one minute, Mr. Chairman.

Mr. REILLY of Connecticut. All I desire to say or can say in the minute allowed me is that the frenzied financiering and unfair control by interlocking directorates that this bill seeks to rectify do not apply to cities of 100,000 or 200,000 inhabitants. In the banking business of New Haven, Bridgeport, Worcester, Fall River, and other New England cities there is no interlocking directors' evil and no need of this legislation. It looks as if the other cities of the country were being punished for the offenses of one or two great money centers and a few money kings. The limit should be raised to cities of at least 200,000, and might safely go beyond that figure.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Connecticut [Mr. REILLY].

The question was taken, and the amendment was rejected.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

Mr. VOLSTEAD. I yield to the gentleman three minutes, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] is recognized for three minutes.

Mr. MANN. Mr. Chairman, I am not in sympathy with the section, and, having said that much about the section, I would like to ask a question in reference to what it means. Section 9 provides—

That from and after two years from the date of the approval of this act no person who is engaged as an individual—

Now what? Then it proceeds:

Or who is a member of a partnership.

Now, if the gentleman can find anything that follows that that it relates to, I will be willing to give him a new suit of clothes. [Laughter.]

Mr. BARNHART. It would not relate to it if it would follow it.

Mr. MANN. I yield, Mr. Chairman, to know what that refers to, if anybody can tell me. All the language that follows it relates to a corporation. I suppose that the mere fact that an individual is "engaged" is not intended to prevent him from being an officer or director or employee of a corporation.

Mr. CARLIN. That section is intended to apply to the individual.

Mr. MANN. I know. I am not asking what the section applies to, but what this language applies to:

No person who is engaged as an individual.

What?

Mr. CARLIN. An individual engaged in producing or selling equipment.

Mr. MANN. That is not what the bill says. The bill says:

No person who is engaged as an individual, or who is a member of a partnership, or is a director or other officer of a corporation that is engaged in the business, in whole or in part, of producing or selling equipment—

And so forth.

All the language about equipment is related to and a part of the definition of "a corporation," and there is no language in the paragraph that relates to an individual or a partnership except that under the language a man that is "engaged," or a man who is a member of a partnership, can not become a director or other officer or employee of a corporation. Of course I do not expect the gentleman to correct it now, but, as a matter of credit to even the Democratic side of the House. I hope the gentleman will study grammar enough and rhetoric enough to make that language mean sense. [Laughter.]

Mr. CARLIN. I think the gentleman needs to become a student, and not the gentlemen on this side.

Mr. MANN. Oh, the gentleman can say that, but the gentleman can not answer the question.

Mr. CARLIN. I think the language is perfectly correct. That answers the question.

Mr. MANN. If you should leave that in the bill, and any school teacher looked at it, you would be forever discredited. [Laughter.]

Mr. CARLIN. I think the gentleman is mistaken about that.

The CHAIRMAN. The pro forma amendment will be considered withdrawn, and the Clerk will read.

The Clerk read as follows:

SEC. 10. That any suit, action, or proceeding under the antitrust laws against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman a question. This is a section that should be amended to conform to the previous amendment about jurisdiction and service. I suppose the committee wants to offer an amendment, does it not?

Mr. WEBB. I believe the amendment we agreed to before, Mr. Chairman, was that after the word "found" we would insert the words "or has an agent."

Mr. CULLOP. I would like, Mr. Chairman, to suggest that there be incorporated in the amendment further the language "and wherever the cause of action accrues." That applies to bringing a suit; that any suit or action against a corporation may be brought not only in the judicial district whereof it is an inhabitant, but also in any district wherein it may be found or has an agent, and it ought to go further, and I think that was the agreement, and provide "or where the cause of action arises."

Mr. CARLIN. How will you get service there?

Mr. CULLOP. There is where it has an agency.

Mr. CARLIN. If you sue them where they have an agency, it does not make any difference where the cause of action arises. You would not help the bill any by adding what you suggest. I think if you include the words "or has an agent" you have got the whole thing.

Mr. CULLOP. If the committee are satisfied with that, I will not press the suggestion.

The CHAIRMAN. Does the gentleman from North Carolina offer an amendment?

Mr. WEBB. The amendment which I suggested, after the word "found," in line 4, on page 31, to add the words "or has an agent."

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 31, line 4, after the word "found," insert the words "or has an agent."

Mr. WEBB. And strike out the period, and insert a comma after the word "found."

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The amendment was agreed to.

Mr. SUMNERS. Mr. Chairman, I move to strike out the last word, for the purpose of making a suggestion to the committee, and if necessary, of offering an amendment.

It seems to me very clear that when the bill comes to provide for the venue, it ought to add the words "where the cause of action or any part thereof arises."

That fixes the venue, and does not make the plaintiff depend upon the place where he may be able to find an agent.

Mr. Chairman, I withdraw the pro forma amendment if I may, and offer this amendment.

The CHAIRMAN. If there be no objection, the pro forma amendment will be withdrawn; and the gentleman from Texas offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 31, line 4, strike out the period at the end of the paragraph, insert a comma, and add the following: "or where the cause of action or any part thereof arises."

Mr. MANN. I suggest that the gentleman offer it to come in after the amendment just agreed to.

Mr. SUMNERS. I meant to ask unanimous consent that it come in after the amendment just adopted.

The CHAIRMAN. If there be no objection, the amendment will be modified in the way indicated by the gentleman from Texas.

Mr. SUMNERS. Mr. Chairman and gentlemen of the committee. I am certain that this amendment ought to be adopted. There is no reason on earth why it should not be adopted. This amendment provides that suit may be instituted where the cause of action or any part thereof accrues. Now, why should it not be adopted? If a man suffers an injury in a given locality, why not bring the suit there?

Mr. WEBB. The bill provides that you can sue the corporation wherever it may be found, or wherever it has an agent, or wherever it resides. Now, how could you get service on a corporation unless it be found in a locality or unless it has an agent there?

Mr. SUMNERS. May I ask the gentleman a question before answering his? Has the gentleman any objection to permitting a man to bring suit at the place where he suffers the injury?

Mr. WEBB. You may not be able to find anyone to serve process upon.

Mr. SUMNERS. We can provide for the service of process later. The service of process is governed entirely by the laws which Congress may enact; and if it is necessary to have subsequent legislation in order to regulate the matter of service of process that is no reason why the suit should not be brought at the place where the cause of action arises.

Mr. WEBB. You might authorize suit against the property of the corporation, but you could not get personal service on the corporation unless it had an agent there, or was found there, or resided there.

Mr. SUMNERS. Unless Congress authorized service beyond the district, and we can do that.

Mr. WEBB. How can you get service of process?

Mr. SUMNERS. By sending your process to an officer of the Federal Government at the place where the corporation has its residence or an agency.

Mr. CARLIN. The gentleman's amendment does not provide for that.

Mr. SUMNERS. I know it does not; but there is no reason why that amendment could not be added. I will offer that amendment if it ought to be there. If you adopt this amendment, that does not interfere with the right of service of process, just the same as you have it under this bill. Suppose a corporation or individual goes into a certain locality and there inflicts an injury, and then withdraws its agent from that territory. Do you mean to tell me that this committee is in favor of driving the man who suffered the injury to a foreign jurisdiction to get his remedy? There is nothing fair or just about it, and I am sure that the committee do not intend to do that. I merely want to call your attention to it, and I hope the committee will agree to it. It does not weaken your bill by just adding that much more to it, and it gives the poor man who has suffered the injury that much additional opportunity to bring suit at or near his home. It can not hurt your bill.

Mr. WEBB. We have already broadened the provisions of the Sherman Act with reference to the bringing of suit and the service of process at any place where the corporation is an inhabitant, or wherever it is found, or wherever it has an agent. I can hardly conceive of a suit being brought otherwise than under these conditions, and it makes service by process easy, and therefore we oppose the amendment.

Mr. FOWLER. Mr. Chairman, I want to ask the gentleman in charge of the bill a question. The language of the bill is as amended "wherever it may be found," and the amendment is "or has an agent." What do you mean by the language "wherever it may be found"?

Mr. WEBB. Wherever it has an agent. The circuit court of appeals has so decided.

Mr. FOWLER. The antecedent of "it" is "corporation." Where may a corporation be found?

Mr. WEBB. Wherever it has an agent, and practically every State in the Union requires, before a corporation is allowed to do business within the borders of the State, that it must have an agent upon whom process can be served.

Mr. FOWLER. That is true, and that is the reason of my asking the question. This is a Federal proceeding and ought not you to enumerate the officers on whom service may be had? Ought you not to say the president, the vice president, any director, or any agent of the corporation, so that it would mean something? "It" stands for corporation in the language you have used.

Mr. WEBB. I am not sure, but I think there is a provision in the Federal law which allows you to serve the president, vice president, director, or agent of a corporation.

Mr FOWLER. The gentleman means that the plaintiff is permitted to get service on the corporation by serving the president, vice president, director, or an agent?

Mr. WEBB. Yes.

Mr. FOWLER. I am not sure, and I want information on that.

Mr. KONOP. Will the gentleman yield?

Mr. FOWLER. I will yield to the gentleman.

Mr. KONOP. I would like to ask a question. You say wherever it may be found or has an agent. Suppose a violator of the antitrust law is an individual? Would you refer to him as "it"?

Mr. WEBB. This refers to corporations who commit actions in restraint of trade.

Mr. CARLIN. This is in relation to suits against corporations.

Mr. FOWLER. The antecedent of "it" is "corporation." The only point I wanted to raise is as to the person on whom service would be had. My opinion is that the persons ought to be enumerated if they are not definitely enumerated in some Federal statute.

Mr. FLOYD of Arkansas. Will the gentleman yield?

Mr. FOWLER. Yes.

Mr. FLOYD of Arkansas. I desire to call the gentleman's attention to the fact that the language he is discussing is found in section 7 of the Sherman antitrust law, where it says "in which the defendant resides or is found." There has never been any difficulty about service in regard to those words, and the gentleman from Illinois desires to put a limitation upon that language which would lessen it and narrow it. When you mention specific officers, agents, or individuals upon whom service may be had, like the president, vice president, and director, and so forth, you narrow the scope of the provision. The corporation is found wherever it is transacting business and has any kind of an agent.

Mr. FOWLER. Well, you must have some person definite on whom to get service before you can get a corporation into court. The gentleman from Arkansas is too good a lawyer not to know all that.

Mr. FLOYD of Arkansas. But when you say agent it includes every kind of an agent.

Mr. FOWLER. There is a difference between an officer of a corporation and the agent of a corporation.

Mr. DAVENPORT. If the gentleman from Illinois will yield——

Mr. FOWLER. I will yield.

Mr. DAVENPORT. I have had occasion within the last few weeks to look up the Federal statutes in regard to the service of corporations. There is a statute that provides in substance that a suit against a corporation may be served on the president, vice president, or agent, or any officer of the corporation.

Mr. FOWLER. That is exactly the point I am raising. If there is a Federal statute providing that service shall be made upon representatives of a corporation in order to get it into court, I presume that this language is sufficient.

Mr. DAVENPORT. That is a fact, because I looked it up within two weeks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 12. That whenever a corporation shall be guilty of the violation of any of the provisions of the antitrust laws the offense shall be deemed to be also that of the individual directors, officers, or agents of such corporation; and upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both, in the discretion of the court.

Mr. LENROOT. Mr. Chairman, I move to strike out the last word for the purpose of asking information of the chairman of the committee. Section 12 as it appears before us now is radically different from the section in the original bill. I would like to ask the chairman of the committee what the thought of the committee was in lines 12 and 13. The language is "the offense shall be deemed to be also that of the individual director, officers, or agents of such corporation." Was it the thought of the committee that each director of a corporation guilty of this offense should also be deemed personally guilty?

Mr. WEBB. As far as we are concerned, it would be read, in connection with line 13, after the semicolon, "and upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any such prohibited acts shall be deemed guilty of a misdemeanor," and so forth. I think it should be connected up with that provision.

I do not think that the officer of the corporation could be convicted unless you picked out the officer who had done the prohibited thing, and that is explained in lines 13 to 15, inclusive.

Mr. LENROOT. It ought to be so, but it certainly does not read so on its face. It would be open to construction and the construction seems to me to be uncertain.

Mr. FLOYD of Arkansas. What suggestion has the gentleman to make?

Mr. LENROOT. The original section read in this way:

Shall be deemed to be also that of the individual directors, officers, and agents of such corporation authorizing, ordering, or doing any of such prohibition acts.

It limited the guilt to those actually responsible for the acts violative of the law. I am not offering an amendment, because I also want to raise another question.

Mr. FLOYD of Arkansas. While the gentleman is on that point, if he will notice the draft of the original provision he will find that it is connected with the preceding clause; but the committee, in order to make it clear that the conviction of the corporation did not of itself constitute the director's guilt, changed it so as to read:

And upon the conviction of the corporation any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor—

And so forth.

Mr. LENROOT. I want to ask the gentleman if in seeking to avoid one difficulty he has not gotten into another?

Mr. FLOYD of Arkansas. If we did, we would be very glad to have any suggestion from the gentleman.

Mr. LENROOT. I am not entirely clear myself. I am asking for information.

Mr. FLOYD of Arkansas. The purpose we had was to make it clear that, when a corporation had been guilty, those officers, agents, and directors of the corporation that either authorized, ordered, or did the thing prohibited should be guilty. Under the existing law, and without that provision of the statute, the person who did the things would undoubtedly be guilty; but in the enforcement of the criminal provisions of the Sherman law, experience has demonstrated that both juries and courts are slow to convict men who have simply done acts authorized or ordered by some officers of the concern higher up, and the words "authorized" and "ordered" were introduced to reach the real offenders, the men who caused the things to be done; and if the language is susceptible of any ambiguity and is not clear, we desire to make it clear. I will state to the gentleman that we intended to give agents and officers a trial, and we do not mean that the guilt of the corporation shall attach to them without trial; but in order to obtain a conviction, it will be necessary for the Government to charge them specifically with authorizing, ordering, or doing of the thing prohibited, and, on proof, convict them.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. LENROOT. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MANN. Mr. Chairman, before the gentleman proceeds, will he yield in order that I may ask a question?

Mr. LENROOT. Yes.

Mr. MANN. Under this language—

and upon the conviction of the corporation, any director, officer, or agent who shall have authorized, ordered, or done any of such prohibited acts shall be deemed guilty of a misdemeanor—

would the corporation have to be convicted before any proceeding, information or otherwise, indictment, could be brought against the officers of the corporation for the offense?

Mr. FLOYD of Arkansas. I do not think so. It was not so intended.

Mr. MANN. Is not that what it says? The first part says:

That whenever a corporation shall be guilty of the violation of any of the provisions of the antitrust laws the offense shall also be deemed to be that of the individual directors—

And so forth.

How can you tell when the corporation is guilty until you have tried the corporation?

Mr. FLOYD of Arkansas. I think the officers, directors, and agents might be guilty independently of the guilt of the corporation.

Mr. MANN. In the first part you have to find the corporation guilty before any of them can be convicted, and then you go on and say that upon conviction the others may be convicted.

Mr. LENROOT. Mr. Chairman, I appreciate the difficulty that the committee was in with reference to the original section to make it clear that merely upon conviction of the corporation the officers should not be convicted of the offense without trial, but in attempting to remedy that it seems to me the committee has gotten into another and even more serious difficulty. As suggested by the gentleman from Illinois [Mr. MANN], the first section now reads that the corporation itself must first be convicted before they can proceed against the officers; but that is not the most serious thing, for I am afraid, as the section reads, it will be construed in this way: That when the corporation is convicted the question of violation of law becomes a settled fact, and the only issue that the officers are entitled to be heard upon in the action against them is the simple one as to whether or not they ordered or authorized the act to be done, and denying them the opportunity to be heard as to whether the act itself was in fact prohibited by the law; but they certainly must have the right to have that question determined as well as the fact as to whether or not the particular act was ordered or authorized by them.

Mr. FLOYD of Arkansas. In other words, the gentleman from Wisconsin suggests that the language used might be interpreted to mean that the officers of the corporation would never be convicted unless the corporation was first convicted.

Mr. LENROOT. That is the way it reads.

Mr. FLOYD of Arkansas. I desire to say it was not the intention of the committee to give it any such construction and to repeat that if an amendment can be suggested that will cure the apparent defect the committee will be glad to accept it. We intended to provide that when the corporation was convicted that the offense should be deemed also the offense of the officers and agents authorizing, ordering, or doing the prohibited thing, and then to provide that these individuals should not be convicted except upon indictment and trial as to the facts charged.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. VOLSTEAD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out section 12 and substitute:

"Any person who shall do, or cause to be done, or shall willingly suffer and permit to be done any act, matter, or thing prohibited or declared to be unlawful in the antitrust laws or shall aid or abet therein, shall be deemed guilty of such prohibited and unlawful acts, matters, and things and shall be subject to the punishments prescribed therefor in the trust laws."

Mr. FLOYD of Arkansas. Mr. Chairman, we desire to oppose the amendment offered by the gentleman from Minnesota.

The CHAIRMAN. The gentleman from Minnesota has the floor.

Mr. VOLSTEAD. Section 12, as it reads, I think clearly requires that there must be first a conviction of the corporation before there is any guilt on the part of the officers, because it provides that upon conviction the officers doing certain things shall be guilty of a misdemeanor; consequently it is necessary to establish first the guilt of the corporation. I assume that the committee did not intend any such result as that, because instead of making the guilt personal it would make it——

Mr. METZ. If the gentleman will permit me there, we are trying in all of these sections to deal with the corporation, with the corporate form of doing business. The individual is not touched in any shape or manner. The moment he incorporates under the State law he becomes a corporation. Now, a great majority of the corporations of this country are not corporations in the sense that their stock is for sale, but it is a one-man concern and is under the control of one man with dummy directors, and if he——

Mr. VOLSTEAD. I did not yield for a speech, but simply for a question.

Mr. METZ. My question is, How are you going to reach the one-man corporation?

Mr. VOLSTEAD. The amendment I have offered is practically a copy of a similar act that is applied to the railway corporations by the interstate-commerce act. It has this additional advantage over the one contained in the bill. It does not increase the punishment beyond the limit fixed in the various acts. Take, for instance, section 9. The punishment there is only $100, while the punishment provided in section 12 is $5,000.

Mr. WEBB. It is $100 a day in section 9.

Mr. VOLSTEAD. But you do not intend to change that item, you intend that the punishment shall be the same; that is, that the punishment of the individual shall be the same as the punishment of the corporation. Now, the amendment that I have offered——

Mr. WEBB. Will the gentleman permit an interruption?

Mr. VOLSTEAD. Yes.

Mr. WEBB. I take it that we all agree that this section ought to be amended, and I ask unanimous consent to let this section go over until to-morrow and see if we can not draw up an amendment that will be acceptable to both sides.

Mr. TOWNER. I hope that will be granted.

The CHAIRMAN. Does the gentleman yield to that request?

Mr. VOLSTEAD. Yes.

Mr. TOWNER. Before leaving it, I would like to inquire of the chairman of the committee if this section might not be omitted altogether. I would like this question to be considered. The reason for that is this: Returning to page 20, you have defined there the word "person" to include also corporations. But that does not by any means mean that the word "person" always means a corporation. It means in the bill just as much as it ever did. It means a person, and if any person commits any of the acts that are prohibited by this act—that is, if his personal connection can be shown with any of those acts—will he not be deemed as a violator of the terms of this act?

Mr. VOLSTEAD. May I suggest to the gentleman that I think it is very essential that some prohibition of this kind should be made, because section 8, which deals with the question of stock consolidations, does not mention persons at all. It is simply a prohibition against corporations, and in order to prevent individuals from carrying out the consolidations prohibited in section 8 you will need that; otherwise you would have nothing at all.

The CHAIRMAN. The gentleman from North Carolina [Mr. WEBB] asks unanimous consent that section 12 be passed over. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 15. That no preliminary injunction shall be issued without notice to the opposite party.

No temporary restraining order shall be granted without notice to the opposite party unless it shall clearly appear from specific facts shown by affidavit or by the verified bill that immediate and irreparable injury, loss, or damage will result to property or a property right of the applicant before notice could be served or hearing had thereon. Every such temporary restraining order shall be indorsed with the date and hour of issuance, shall be forthwith filed in the clerk's office and entered of record, shall define the injury and state why it is irreparable and why the order was granted without notice, and shall by its terms expire within such time after entry, not to exceed 10 days, as the court or judge may fix. In case a temporary restraining order shall be granted without notice in the contingency specified, the matter of the issuance of a preliminary injunction shall be set down for a hearing at the earliest possible time and shall take precedence of all matters except older matters of the same character; and when the same comes up for hearing the party obtaining the temporary restraining order shall proceed with his application for a preliminary injunction, and if he does not do so the court shall dissolve his temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

Section 263 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, is hereby repealed.

Nothing in this section contained shall be deemed to alter, repeal, or amend section 266 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911.

Mr. MacDONALD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. MacDONALD] offers an amendment, which the Clerk will report.

Mr. MacDONALD. Mr. Chairman, beginning with the second paragraph on page 33, line 13, I move to strike out the remainder of the section and insert the language that I have sent to the desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 33, line 13, strike out the remainder of the section down to and including line 24, on page 34, and insert in lieu thereof the following:

"In construing this act the right to enter into the relation of employer and employee, to change that relation and to assume and create a new relation of employer and employee, and to perform and carry on business in such relation with any person in any place or do work and labor as an employee shall be held and construed to be a personal and not a property right. In all cases involving the violation of the contract of employment by either the employee or employer where no irreparable damage is about to be committed upon the property or property right of either no injunction shall be granted, but the parties shall be left to their remedy at law."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Michigan [Mr. MacDONALD].

Mr. MacDONALD. Mr. Chairman, the second paragraph of section 15, as I read it, does nothing to change existing law in regard to injunctions or the issuance of injunctions, except one thing, and that one thing is that the language of the section, by implication, creates a new and distinct class of cases in which injunctions can issue with notice. The paragraph provides—

That no temporary restraining order shall be granted without notice to the opposite party—

And so forth; and in continuation states no further jurisdiction in such cases than now exists under the present practice, thereby, by implication, creating another class of injunctions that can be granted with notice; and I am constrained to believe that a court could hold, and probably would hold, that that might authorize courts to issue injunctions in cases of invasion of personal rights where they are not so authorized to do now. That has been a long-mooted question in some aspects of this controversy—whether the right of issuing injunctions where property and property rights are threatened with irreparable injury and no adequate remedy exists at law, is not gradually being extended so as to take in, partially at least, personal rights. And I think that if this section of the law is passed as it now stands you leave room for argument, at least, that there is an express authorization of the statute which by implication permits the issuance of injunctions in that class of cases.

The language that I have offered as a substitute for this section is, as is well known, a part of the Bartlett bill, and is unobjectionable, and plainly states the object for which it is intended. I think that it is very important that this change should be made, so that there can be left upon the statute no question as to whether the right to extend the issuance of injunction to this field has been granted.

Mr. FLOYD of Arkansas. Mr. Chairman, I desire to oppose the amendment offered by the gentleman from Michigan [Mr. MacDONALD] and to explain this provision.

The language that the gentleman objects to is substantially the language of rule 73 of rules of practice for the courts of equity adopted by the Supreme Court of the United States.

The Clayton anti-injunction bill that was passed at the last session of Congress contained a similar provision, which was modified in this bill so as to make it conform to rule 73 adopted by the Supreme Court of the United States in equity cases. We did not desire to disturb that rule; but the fact that they have adopted it as a court rule is no reason why we should not incorporate it into the statute, especially when we are dealing with the general subject of injunctions.

Mr. MacDONALD. Is it true that there is nothing in this section but what is the practice now under the law and the rules?

Mr. FLOYD of Arkansas. I am not sure of that; but the point I make is that the first part of the language that the gentleman moves to strike out follows the language of rule 73 of the Supreme Court of the United States in equity cases, formulated and adopted by the Supreme Court since the passage of the Clayton bill in the Sixty-second Congress. I will incorporate that rule in my remarks:

Rule 73.

PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS.

No preliminary injunction shall be granted without notice to the opposite party. Nor shall any temporary restraining order be granted without notice to the opposite party, unless it shall clearly appear from specific facts, shown by affidavit or by the verified bill, that immediate and irreparable loss or damage will result to the applicant before the matter can be heard on notice. In case a temporary restraining order shall be granted without notice, in the contingency specified, the matter shall be made returnable at the earliest possible time, and in no event later than 10 days from the date of the order, and shall take precedence of all matters, except older matters of the same character. When the matter comes up for hearing the party who obtained the temporary restraining order shall proceed with his application for a preliminary injunction, and if he does not do so the court shall dissolve his temporary restraining order. Upon two days' notice to the party obtaining such temporary restraining order, the opposite party may appear and move the dissolution or modification of the order, and in that event the court or judge shall proceed to hear and determine the motion as expeditiously as the ends of justice may require. Every temporary restraining order shall be forthwith filed in the clerk's office.

The other provisions of the section have been very carefully considered. No material change has been made in the other

provisions of the Clayton injunction bill, which was thoroughly considered and passed at the last session of the Congress.

While in the past some courts have followed the general principles laid down in those provisions of this bill that relate to injunctions, I desire to call the attention of the gentleman from Michigan [Mr. MACDONALD] to the fact that we have many Federal courts in this country, and that a great many of the judges have adopted rules contrary to the principles laid down here and have enforced them in their respective courts; and the Committee on the Judiciary in preparing this injunction bill made an effort to follow the better line of decisions of the Federal courts and to put in the statute an inhibition that would prevent courts that had been abusing the writ of injunction by issuing it in cases in which we do not feel that the issuance of an injunction was justified from doing so in the future.

Mr. MACDONALD. Does the gentleman refer to cases of injunctions where it is doubtful whether the injunction is based upon threatened injury of personal rights rather than property or property rights?

Mr. FLOYD of Arkansas. We preserve that distinction in the bill.

Mr. MACDONALD. Not in terms.

Mr. FLOYD of Arkansas. I think so.

Mr. MURDOCK. Mr. Chairman, before the gentleman takes his seat——

Mr. FLOYD of Arkansas. I yield to the gentleman.

Mr. MURDOCK. I should like to have the gentleman explain about this section. What is the time of the notice given in case of a restraining order where irreparable injury is claimed? How much of a notice is provided for in this bill?

Mr. FLOYD of Arkansas. It may be issued without notice, but unless the parties proceed within 10 days the suit abates and must be dismissed. The rule of the Supreme Court is more liberal than the provision of the bill passed at the last session, which provided for 7 days and a renewal of 7 days, which would make 11 days; but the rule of the Supreme Court which is incorporated here requires the parties to proceed within 10 days or the suit will abate and must be dismissed.

Mr. MURDOCK. The language of the bill is that no preliminary injunction shall be issued without notice to the opposite party. There must in every case be some notice.

Mr. BARTLETT. Unless——

Mr. MURDOCK. Unless irreparable injury to property is claimed.

Mr. FLOYD of Arkansas. Yes.

Mr. MURDOCK. The provisions of the second paragraph are precisely in keeping with the better practice now. Is that right?

Mr. FLOYD of Arkansas. Yes; that is what we understand.

Mr. MURDOCK. But you are writing into statutory law a rule of the Supreme Court. Is that right?

Mr. FLOYD of Arkansas. Yes; absolutely. In the consideration of this question we examined the decisions. One court would hold that a certain practice was lawful and would refuse to issue an injunction. Another court would proceed to issue an injunction, and it was this wrongful issuance of injunctions in cases where courts were not justified under the facts in issuing them that has given rise to this criticism of the Federal courts.

We propose to write the better practice of the Federal courts into the statute as a rule to govern all the courts, and not leave it to their discretion to issue injunctions on whatever state of fact may suit the fancy of the judge.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 17. That every order of injunction or restraining order shall set forth the reasons for the issuance of the same, shall be specific in terms, and shall describe in reasonable detail, and not by reference to the bill of complaint or other document, the act or acts sought to be restrained, and shall be binding only upon the parties to the suit, their agents, servants, employees, and attorneys, or those in active concert with them and who shall, by personal service or otherwise, have received actual notice of the same.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word. I wish the gentleman from North Carolina would explain section 17.

Mr. WEBB. The main purpose of the section is to bind nobody to the statute except the agent and those in active service; the parties enjoined are those who have actual interests.

Mr. MURDOCK. Is this as in the case of section 15 merely writing into the statutory law the practice of the court?

Mr. WEBB. Yes; I think the case of In re Lennon is practically embodied in this section. It has not always been the practice in the Federal courts, but we are making or trying to make a uniform practice for all the courts.

Mr. FLOYD of Arkansas. We prohibit what is known as the blanket injunction. Courts have issued injunctions against parties without naming them and so a man might be in California and violate an order of the court in New York and not know it, and be brought into court for contempt in violating the order. The main purpose of this section is to prevent what is commonly known as the blanket injunction.

Mr. MURDOCK. This makes it specific?

Mr. WEBB. Yes; it does away with what as the gentleman from Arkansas says is a blanket injunction and protects every man who may come within the injunction law.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I think there is to be some contest in regard to section 18, is there not?

Mr. WEBB. Yes. I thought the Clerk might read section 18 and then we would leave that open for amendment to-morrow.

The CHAIRMAN. Without objection, the pro forma amendments are withdrawn and the Clerk will read.

The Clerk read as follows:

SEC. 18. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at or near a house or place where any person resides or works, or carries on business or happens to be, for the purpose of peacefully obtaining or communicating information, or of peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling at any place in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto.

Mr. WEBB. Mr. Chairman, the House has been in continuous session since 11 o'clock this morning, 10 hours and a half. It has been a very strenuous day, and on behalf of the committee I want to thank the Members who have stayed here and assisted us. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to; accordingly, the committee rose, and Mr. FITZGERALD, having taken the chair as Speaker pro tempore, Mr. BYRNS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 15657) to supplement existing laws against unlawful restraints and monopolies, and for other purposes, and had come to no resolution thereon.

VOCATIONAL EDUCATION (H. DOC. NO. 1004.)

The SPEAKER pro tempore laid before the House the report of the Commission on National Aid to Vocational Education, which was ordered printed and referred to the Committee on Education.

EXTENSION OF REMARKS.

Mr. CURRY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD

Mr. MURDOCK. Upon what subject?

Mr. CURRY. I want to print in the RECORD a speech delivered by my colleague, Hon. JULIUS KAHN, at the memorial service held by the Grant Circle of the Ladies of the Grand Army of the Republic.

Mr. WEBB. Is there any criticism of the Executive in that speech?

Mr. CURRY. Not that I know of; I have not read it. [Laughter.]

Mr. WEBB. I regret very much to object, Mr. Chairman.

Mr. MANN. Is there any reason why a Member of Congress should not criticize the Executive?

Mr. WEBB. No; except that the Member might come here and do it instead of having another Member put it in the RECORD.

Mr. MANN. If there are to be no speeches placed in the RECORD which criticizes the Executive, there will be no speeches extended in the RECORD praising him.

Mr. WEBB. We do not know what is in the speech, and the gentleman from California himself does not know.

Mr. MANN. If it is not a proper speech, it will be stricken out of the RECORD. We authorized three speeches this morning

to be printed in the RECORD, and the gentleman from North Carolina did not know what was in either one of them, and one was a speech by the President.

Mr. WEBB. If the gentleman from Illinois wants to publish a speech that has not been read, and the gentleman does not know what is in it, very well.

Mr. CURRY. This can not be an objectionable speech; it was delivered before the U. S. Grant Circle of the Ladies of the Grand Army of the Republic.

Mr. WEBB. I have no objection.

The SPEAKER pro tempore. Is there objection?

There was no objection.

THE SPEAKER.

Mr. AUSTIN. Mr. Speaker, I ask unanimous consent to print in the RECORD an article published in the Washington Herald of Sunday, written by former Representative John Q. Tilson, of Connecticut, with reference to Speaker CLARK.

The SPEAKER pro tempore. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. WEBB. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 9 o'clock and 37 minutes p. m.) the House adjourned until to-morrow, Tuesday, June 2, 1914, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. STOUT, from the Committee on Irrigation of Arid Lands, to which was referred the bill (H. R. 12249) to extend the provisions of the act of June 25, 1910, authorizing assignment of reclamation homestead entries, and of the act of August 9, 1912, authorizing the issuance of patents on reclamation of homestead entries to lands in Flathead project, Montana, reported the same with amendment, accompanied by a report (No. 730), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. STOUT, from the Committee on the Public Lands, to which was referred the bill (H. R. 1516) for the relief of Thomas F. Howell, reported the same with amendment, accompanied by a report (No. 731), which said bill and report were referred to the Private Calendar.

Mr. SCOTT, from the Committee on Claims, to which was referred the bill (H. R. 6879) for the relief of Frank Payne Selby, reported the same with amendment, accompanied by a report (No. 732), which said bill and report were referred to the Private Calendar.

Mr. METZ, from the Committee on Claims, to which was referred the bill (H. R. 12484) to pay the Cleveland Press, of Cleveland, Ohio, $200 for a horse shot because of injuries sustained on a defective platform scale in the post office at Cleveland, Ohio, reported the same without amendment, accompanied by a report (No. 733), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 4952) to refund to John B. Keating customs tax erroneously and illegally collected at Portland, Me., on cargo of coal March 11, 1903, reported the same without amendment, accompanied by a report (No. 734), which said bill and report were referred to the Private Calendar.

Mr. PETERS of Maine, from the Committee on Claims, to which was referred the bill (H. R. 16795) to reimburse the owners of the schoonor *Thomas W. H. White*, reported the same without amendment, accompanied by a report (No. 735), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HUGHES of Georgia: A bill (H. R. 16952) to provide for the promotion of vocational education; to provide for cooperation with the States in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the States in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure; to the Committee on Education.

By Mr. CARY: A bill (H. R. 16953) prohibiting the sale or keeping for sale, in the District of Columbia, of undrawn cold-storage poultry; to the Committee on the District of Columbia.

By Mr. CARTER (by request): A bill (H. R. 16954) to regulate insurance companies and others in the use of the United States mails; to the Committee on the Post Office and Post Roads.

By Mr. CARR: A bill (H. R. 16955) to provide for an increase in the facilities of the Frankford Arsenal for the manufacture of artillery ammunition authorized by recent appropriation acts; to the Committee on Appropriations.

By Mr. GOODWIN of Arkansas: A bill (H. R. 16956) providing for the extension of the post office at Camden, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. BRITTEN: A bill (H. R. 16957) to amend an act entitled "An act to reorganize and increase the efficiency of the personnel of the Navy and Marine Corps of the United States," approved March 3, 1899, as amended by the act approved August 22, 1912, entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 16958) granting an increase of pension to Mary Decker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16959) granting an increase of pension to Ann Gardner; to the Committee on Invalid Pensions.

By Mr. BAILEY: A bill (H. R. 16960) granting an increase of pension to John Gore; to the Committee on Invalid Pensions.

By Mr. BOWDLE: A bill (H. R. 16961) granting an increase of pension to John H. H. Babcock; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16962) granting an increase of pension to Mary A. Muir; to the Committee on Invalid Pensions.

By Mr. BURNETT: A bill (H. R. 16963) for the relief of heirs of estate of Calvin Blevins, deceased; to the Committee on War Claims.

By Mr. GITTINS: A bill (H. R. 16964) granting an increase of pension to George Oatman; to the Committee on Invalid Pensions.

By Mr. GREEN of Iowa: A bill (H. R. 16965) granting a pension to Anna M. Dayton; to the Committee on Invalid Pensions.

By Mr. GREENE of Vermont: A bill (H. R. 16966) granting a pension to Joseph E. La Rocque; to the Committee on Invalid Pensions.

By Mr. HAMILTON of Michigan: A bill (H. R. 16967) granting a pension to Henry F. Baldwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16968) granting a pension to Rebecca McCullough; to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 16969) granting an increase of pension to Mrs. James L. Adams; to the Committee on Pensions.

By Mr. KONOP: A bill (H. R. 16970) granting an increase of pension to Porter H. Campbell; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 16971) granting a pension to Thomas D. Parks; to the Committee on Pensions.

By Mr. LONERGAN: A bill (H. R. 16972) granting a pension to Sheldon S. S. Campbell; to the Committee on Pensions.

Also, a bill (H. R. 16973) granting a pension to Margaret A. Cooper; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16974) granting an increase of pension to Charlotte Easton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16975) granting an increase of pension to Charles Francis Fisher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16976) granting an increase of pension to Isaac L. Griswold; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16977) granting an increase of pension to Emma L. Packard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16978) granting an increase of pension to Jennie Recor; to the Committee on Invalid Pensions.

By Mr. MORGAN of Louisiana: A bill (H. R. 16979) granting a pension to Elizabeth Walsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16980) for the relief of Odalie Pedesclaux; to the Committee on War Claims.

By Mr. PETERS of Maine: A bill (H. R. 16981) granting a pension to Jennie C. True; to the Committee on Invalid Pensions.

By Mr. SMITH of Maryland: A bill (H. R. 16982) for the relief of Horace Freeman; to the Committee on Claims.

Also, a bill (H. R. 16983) for the relief of J. Paul Jones; to the Committee on Claims.

By Mr. J. M. C. SMITH: A bill (H. R. 16984) granting a pension to Lois Finney; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 16985) granting an increase of pension to Charles E. Chase; to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 16986) granting a pension to Joseph Harman; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 16987) granting a pension to Sarah E. Ellison; to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 16988) granting a pension to Charles F. Rich; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 16989) granting an increase of pension to Joel K. P. Wood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16990) granting an increase of pension to Jacob M. Lincoln; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Resolutions from certain citizens of Seattle, Wash.; Mount Pulaski, Ill.; St. Louis, Mo.; Arkansas City, Kans.; Ware, Iowa; Havelock, Iowa; Olympia, Wash.; Monterey, Cal.; Monteno, Ill.; Santa Barbara, Cal.; Clovis, Cal.; Los Angeles, Cal.; Toledo, Ohio; Wenatchee, Wash.; Snohomish, Wash.; Morning Sun, Ohio; La Junta, Colo.; and Hampton, Nebr., protesting against the practice of polygamy in the United States; to the Committee on the Judiciary.

Also (by request), resolutions of protest from the Boston Central Labor Union concerning the deplorable conditions existing in the Colorado mine strike; to the Committee on Mines and Mining.

Also (by request), resolutions of protest against the adoption of a national prohibition amendment, from certain citizens of Franklin County, Mo.; to the Committee on Rules.

By Mr. BELL of California: Memorial of the Ministerial Union of Los Angeles, Cal., favoring national prohibition; to the Committee on Rules.

Also, memorial of the Southern California Child Labor Committee, favoring the child-labor law; to the Committee on Labor.

Also, memorial of the Los Angeles (Cal.) Chamber of Commerce, relative to control of the Colorado River; to the Committee on Rivers and Harbors.

By Mr. BORCHERS: Petitions of 64 citizens of Champaign, 150 citizens of Oreana, 22 citizens of Philo, and 200 citizens of Dewitt County, all in the State of Illinois, favoring national prohibition; to the Committee on Rules.

By Mr. BRITTEN: Petition of Branch No. 1, National Association of Civil-Service Employees, of Chicago, Ill., protesting against the removal of civil-service employees from the Government service at Washington, D. C., on the ground of alleged superannuation; to the Committee on Reform in the Civil Service.

By Mr. BROWNING: Petition of 9 citizens of Wenonah, N. J., favoring national prohibition; to the Committee on Rules.

By Mr. BURKE of Wisconsin: Petition signed by 40 residents of the city of Port Washington, Wis., protesting against the passage of House joint resolution 168. Senate joint resolutions 50 and 88, and against all similar prohibition measures; to the Committee on Rules.

By Mr. CARY: Petition of various members of W. B. Cushing Post, Department of Wisconsin, Grand Army of the Republic, relative to appropriation for controlling by the Government the battle field of Bull Run; to the Committee on Military Affairs.

By Mr. CHURCH: Petition of Sunday School of Methodist Church of Dunbar, Cal., relative to censorship by the Government of motion pictures; to the Committee on Education.

By Mr. CURRY: Petitions of Sunday School of the Christian Church of Winters, Methodist Episcopal Sunday School of Lacy, and Union Sunday School of Peters, all in the State of California, favoring censorship of motion pictures by the Federal Government; to the Committee on Education.

Also, petition of the Vallejo Drug Co., of Vallejo, Cal., and the Palmer Drug Co., in favor of House bill 13305, the Stevens price bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Methodist Episcopal Church of Lockeford, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of the Methodist Episcopal Church of Brentwood, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of 262 citizens and residents of Stockton, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petition of the First Methodist Episcopal Church of Sacramento, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of the First Baptist Church of Sacramento, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of T. E. Williamson, president of the Loyal Sons Class of the First Christian Church of Stockton, Cal., in favor of national prohibition; to the Committee on Rules.

Also, petition of the Sacramento Federated Trades Council, of Sacramento, Cal., protesting against national prohibition; to the Committee on Rules.

Also, petitions of 75 citizens and residents of the third California district, protesting against national prohibition; to the Committee on Rules.

Also, petition of 42 citizens and residents of the third California congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. DALE: Petitions of sundry citizens of New York, against national prohibition; to the Committee on Rules.

Also, petition of the American Association for Labor Legislation, favoring House bill 15222, the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the China & Japan Trading Co. of New York, relative to House joint resolution 173, concerning loss in the Boxer outbreak in China in 1900; to the Committee on Foreign Affairs.

By Mr. DONOVAN: Petitions of sundry citizens of Connecticut, against national prohibition; to the Committee on Rules.

Also, petition of the Bridgeport (Conn.) Pastors' Association, favoring national prohibition; to the Committee on Rules.

By Mr. ESCH: Petition of various members of W. B. Cushing Post, Department of Wisconsin Grand Army of the Republic, relative to appropriation for acquiring tract on which is the Battle of Bull Run ground; to the Committee on Military Affairs.

By Mr. GARDNER: Petition of sundry citizens of Salem, Mass., favoring Federal censorship of motion pictures; to the Committee on Education.

Also, petition of the Newburyport (Mass.) Branch, National Association of Civil Service Employees, favoring House bill 5139, the Hamill civil-service retirement bill; to the Committee on Reform in the Civil Service.

By Mr. GILMORE: Petition of the Massachusetts State Board of Trade, favoring House bill 6435, to provide for ocean mail service between the United States and foreign ports; to the Committee on the Post Office and Post Roads.

Also, petition of Court John Ericsson, No. 155, Foresters of America, Quincy, Mass., favoring erection of a memorial to John Ericsson; to the Committee on the Library.

By Mr. GRIEST: Petition of Harry N. Beyer, of Nottingham, and Ellis Brown, of Little Brittain, and other citizens of Lancaster County, all in the State of Pennsylvania, favoring national prohibition; to the Committee on Rules.

By Mr. HAWLEY: Petition of sundry citizens of the State of Oregon, protesting against the passage of the Sunday-observance bill; to the Committee on the District of Columbia.

Also, petition of the Woman's Christian Temperance Union of Oregon, comprising 3,000 voters, favoring Federal censorship of motion pictures; to the Committee on Education.

Also, petitions of Edward M. Marcham and other citizens of the State of Oregon, protesting against national prohibition; to the Committee on Rules.

By Mr. HUMPHREY of Washington: Petitions of sundry citizens of the State of Washington, protesting against national prohibition; to the Committee on Rules.

By Mr. IGOE: Petitions of Earnest Holger, Hardie Dillinger, Charles Flowers, Tonie Wilbers, W. E. Tafft, George Oaks, Ed. Moore, Will Lansam, M. Nacy, O. Wornell, D. G. Simpsins, W. H. Showers, W. W. Meesene, Tom Nelson, Charles Byron, Ralph Smith, E. S. Elliott, Eugene Carroll, C. C. White, E. F. C. Harding, W. Sauvain, Till Mans, John Bunn, Ben Hayns, Milton Smith, Albert Young, J. W. Adams, Yancy Bolton, Chester Hogue, M. C. Screvner, A. L. Hayter, C. P. Sanderson, J. H. Hemmingway, B. P. Price, W. R. White, T. H. Abbott, L. E. Smith, L. C. Gayle, Forrest Moore, Jack Renn, Arthur Markham, H. O. Dele, T. Hootzneer, Thomas Groeber, John McDonell,

James Dyrssen, Dock Print, Frank Heizer, Tom Park, Harry Meier, L. Findlay, L. H. Doty, C. H. Greemiary, J. A. Kingsley, T. J. Huegel, E. L. Byrd, William Wheat, L. Wheat, Fred Denchle, E. Diggs, J. L. Hart, J. E. Pous, August Baker, Gus Kramer, Will Robison, H. Hollenberg, John Witten, E. Westhis, August Luctewitte, A. Coffee, I. L. Patte, L. Gordon, Eustus Cander, E. Baysinger, D. T. Hatcher, F. E. Daugherty, Oscar Lewis, C. Lewis, J. M. Kelsay, G. Henry Barckers, Joseph Barckers, John Campbell, Roy Harris, W. Werkvain, W. M. Luadzers, Charles Christian, H. Schmidt, T. H. Wilkerson, Ed. Reed, Sam Wiggins, Frank Ebert, Oliver T. Patter, S. H. Freshour, Frank Miller, Thomas Brown, George Stewart, J. Henderson, Anderson Ramy, S. Brown, D. Brown, A. L. Thomas, J. H. Billows, B. N. Scrivner, Charley Chaney, Orul Clary, W. Warenfack, H. S. Beck, Walter Smallwood, William Wilton, John Wickers, M. B. Campbell, Tom Phillipps, Herman Miller, James Richter, Boyd McDanee, Oscar Milton, Henry Chapel, S. R. Carter, E. Slater, Charles Parsons, James Harris, W. H. Campbell, J. P. Cooper, E. E. Scaggs, John Hughes, Sam Hopkins, James Morrow, J. Mannus, Fred Swanke, F. Opel, B. Menges, M. W. Scott, George Monarch, C. Marrow, Dell Campbell, Charles Stewart, Clem Meyers, Thom West, Charles Mulville, James Mulville, W. M. Mulville, B. S. Marrow, Henry Young, I. N. Stone, Oden Balance, Jerome Smith, Ed. Roberts, Oscar Coffy, Mik Kastner, A. Kingers, C. Scaggs, Rhodes Barbarick, and I. M. King, all of Jefferson City; Clyde Tanis, Aubrey Tanis, and Pete S. Bergen, Eugene; L. Kehret, Edward F. Norton, Phillip Fehl, G. W. Burlew, John Schmidt, William A. Rouner, August Mantey, L. P. Stahl, Bernard Thole, John F. Thole, Will Kornfeld, August F. Mantey, Edward E. Engelland, William A. Sennewald, Morris Garder, William G. Ryan, Julius Engelland, Morris Lander, Fred L. Mueller, Henry Schmitt, all of St. Louis; F. C. Henderson and J. M. Murphy, of Marion; T. M. Swerain-gin and John Welch, of Centertown; Harry Wilson, John Warren, Derby Thomas, D. L. Duden, Fred L. Fleagel, and N. W. Blochberger, all of Lohman; Ira Triffelt, Ben Lutz, and G. Scott, all of Millbrook; W. H. Wetzel and Nath. Roark, of Enon; C. K. Scott, Floyd Amos, D. Roark, J. Scrivner, W. D. Roark, A. Scrivner, B. F. Roark, N. W. Marrow, N. A. Doahla, and F. Wittenmeyer, all of Russellville; Martin West, of Decatur; and Dan Kauffman, of Elston, all in the State of Missouri, protesting against House joint resolution 168 and Senate joint resolutions 50 and 88 and all similar prohibition legislation; to the Committee on Rules.

By Mr. JOHNSON of Washington: Petitions of various citizens of Tacoma, Wash., opposing national prohibition; to the Committee on Rules.

Also, petitions of various citizens of Raymond, Wash., opposing national prohibition; to the Committee on Rules.

Also, petition of various citizens of Vancouver, Wash., opposing national prohibition; to the Committee on Rules.

By Mr. KAHN: Memorial of the Los Angeles (Cal.) Chamber of Commerce, relative to the control of the waters of the Colorado River; to the Committee on Rivers and Harbors.

Also, memorial of the Church Diocese of Los Angeles, Cal., favoring the child-labor bill; to the Committee on Labor.

Also, memorial of the Musicians' Mutual Protective Union, of San Francisco, Cal., protesting against national prohibition, to the Committee on Rules.

Also, memorial of the Red Bluff (Cal.) Chamber of Commerce, favoring the Newlands river regulation bill; to the Committee on Rivers and Harbors.

By Mr. KENNEDY of Iowa: Petition of F. A. McDowell and others, of Washington, Iowa, favoring national prohibition; to the Committee on Rules.

By Mr. KENNEDY of Rhode Island: Petition of Wadhamds & Co., of Portland, Oreg., favoring House bill 15986, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

Also, petition of the Klauber Wangenheim Co., of San Diego, Cal., favoring passage of House bill 15986, relative to false statements in the mails; to the Committee on the Post Office and Post Roads.

By Mr. LEE of Pennsylvania: Petition of the mine workers of Panther Creek Valley, Pa., relative to Colorado strike conditions; to the Committee on Mines and Mining.

By Mr. MERRITT: Petition of sundry citizens of the State of New York, protesting against national prohibition; to the Committee on Rules.

By Mr. MURRAY of Oklahoma: Petition of the Chamber of Commerce of Enid, Okla., against present consideration of trust legislation; to the Committee on the Judiciary.

By Mr. NELSON: Petition of 15 citizens of Sun Prairie, Wis., protesting against national prohibition; to the Committee on Rules.

Also, petition of 18 citizens of Dane County, Wis., protesting against national prohibition; to the Committee on Rules.

By Mr. J. I. NOLAN: Protest of Bryce B. Kerr and 28 other citizens, F. L. Hunt and 53 other citizens, Edward Halloran and 52 other citizens, and Edwin Winter and 84 other citizens, all of San Francisco, Cal., against the passage of the Hobson Nationwide prohibition resolution; to the Committee on Rules.

By Mr. PETERS of Massachusetts: Petitions of sundry citizens and voters of the eleventh Massachusetts congressional district, and sundry citizens of the State of Massachusetts, protesting against national prohibition; to the Committee on Rules.

By Mr. RAKER: Resolutions of the Chamber of Commerce, of Los Angeles, Cal., favoring the acquiring by the United States of sufficient land in Mexico to place the Colorado River entirely within the borders of the United States; to the Committee on the Public Lands.

Also, resolutions of the Christian Men's League, of Red Bluff, Cal., favoring the Gillett bill, designed to check polygamy; to the Committee on the Judiciary.

Also, resolutions of the southern California child labor committee of the Episcopal Church convention at Covina, Cal., favoring the Palmer child-labor bill (H. R. 12292); to the Committee on Labor.

By Mr. REILLY of Connecticut: Memorial of the Wholesalers' Credit Association of Erie, Pa., favoring the passage of House bill 15988, relative to false statements through the mails; to the Committee on the Post Office and Post Roads.

Also, memorial of Silver City Lodge, No. 819, International Association of Mechanics, of Meriden, Conn., favoring passage of Senate bill for Federal inspection of locomotive boilers; to the Committee on Interstate and Foreign Commerce.

By Mr. J. M. C. SMITH: Petition of Street and Electric Railway Employees' Union, No. 343, of Kalamazoo, Mich., against national prohibition; to the Committee on Rules.

By Mr. SMITH of New York: Petition of sundry citizens of Erie County, N. Y., protesting against national prohibition; to the Committee on Rules.

Also, petition of the Knights of Columbus, relative to barring from the mails the Menace; to the Committee on the Post Office and Post Roads.

By Mr. STONE: Petitions of sundry citizens of the sixteenth congressional district of Illinois, against national prohibition; to the Committee on Rules.

By Mr. SUTHERLAND: Papers to accompany the bill (H. R. 16986) granting a pension to Joseph Harman; to the Committee on Invalid Pensions.

Also, petition of Wesley Methodist Church of Wheeling, W. Va., favoring national prohibition; to the Committee on Rules.

Also, memorial of the Fairmont Chamber of Commerce, favoring 1-cent letter postage; to the Committee on the Post Office and Post Roads.

By Mr. TAYLOR of Arkansas (by request): Petitions of 8 citizens of Hot Springs, Ark., and 44 citizens of Pine Bluff, Ark., protesting against national prohibition; to the Committee on Rules.

By Mr. THACHER: Petitions of sundry citizens of Massachusetts relative to national prohibition constitutional amendment; to the Committee on Rules.

Also, petition of sundry citizens of Provincetown, Middleboro, and Carver, all in the State of Massachusetts, favoring national prohibition; to the Committee on Rules.

Also, petition of various members of the General Court of Massachusetts, favoring Gettysburg peace memorial commission; to the Committee on the Library.

By Mr. TREADWAY: Petition of the Granville (Mass.) Grange, Patrons of Husbandry, favoring Government ownership of the telegraph and telephone lines; to the Committee on Interstate and Foreign Commerce.

Also, memorial of the Massachusetts State Board of Trade, favoring the passage of House bill 6435, providing for ocean mail service, etc.; to the Committee on the Post Office and Post Roads.

By Mr. WILSON of New York: Petitions of 175 citizens of the third New York congressional district, protesting against national prohibition; to the Committee on Rules.

By Mr. WINSLOW: Petitions of various business men of Millbury, Spencer, Milford, and Uxbridge, all in the State of Massachusetts, favoring the passage of House bill 5308, relative to taxing mail-order houses; to the Committee on Ways and Means.

Also, petitions of citizens of Worcester, Mass., protesting against the passage of national prohibition resolutions; to the Committee on Rules.